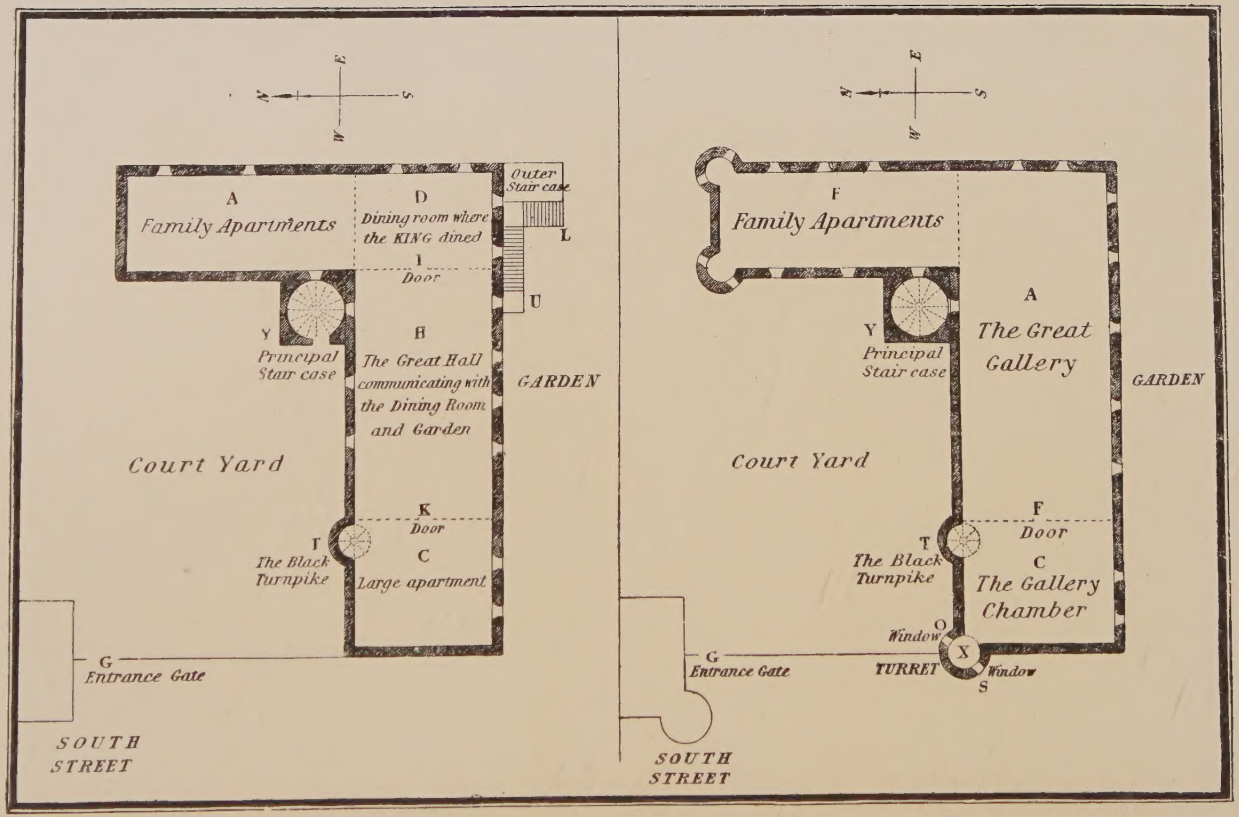
Borowy 1958

THE RIDDLE OF THE RUTHVENS

AND OTHER STUDIES

By the Same Author:

TWELVE SCOTS TRIALS
GLENGARRY'S WAY
THE FATAL COUNTESS
THE REBEL EARL
MALICE DOMESTIC
BAD COMPANIONS
IN QUEER STREET
ROGUES WALK HERE
KNAVES' LOOKING-GLASS
MAINLY MURDER



First Floor.

Second Floor.

PLAN OF GOWRIE HOUSE.

X. The Round.

S. Window from which the King called.

THE
RIDDLE OF THE RUTHVENS
AND OTHER STUDIES

BY

WILLIAM ROUGHEAD

The Field of Knowledge hath been so traced, it is hard to spring any Thing new. Of old Things we write something new, if Truth may receive addition, or Envy, will allow any Thing new. —*The Garden of Cyrus.*

THE MORAY PRESS
EDINBURGH & LONDON

FIRST PUBLISHED OCTOBER 1919
BY W. GREEN & SON, LTD., EDINBURGH.
NEW EDITION, REVISED, PUBLISHED 1936

THE MORAY PRESS
126 PRINCES STREET, EDINBURGH
182 HIGH HOLBORN, LONDON, W.C.1.

PUBLISHED BY GRANT & MURRAY LIMITED
126 PRINCES STREET, EDINBURGH

PRINTED IN SCOTLAND
BY THE DUNEDIN PRESS LIMITED, EDINBURGH

BOUND BY
WILLIAM HUNTER & SONS, EDINBURGH

To

JOSEPH CONRAD

FOR LOVE OF "NOSTROMO"

AND OF "THE SECRET AGENT"

CONTENTS

	PAGE
The Riddle of the Ruthvens	1
The Real Braxfield	32
The Husband of Lady Grange	57
The Pack of the Travelling Merchant	77
Auld Auchindrayne	100
"Antique" Smith	122
The Witches of North Berwick	144
Bargarran's Daughter	167
The Law of Mrs Yelverton	188
Nicol Muschet: His Crime and Cairn	210
The Master of Sinclair and the Fifteen	236
The Toll of the "Speedy Return"	259
The Adventures of David Haggart	283
Mackcoull and the Begbie Mystery	306
With Braxfield on the Bench	332

THE RIDDLE OF THE RUTHVENS

I do the wrong, and first begin to brawl.
The secret mischiefs that I set abroach
I lay unto the grievous charge of others.
—*King Richard the Third.*

EVERYONE has heard of the affair which King James the Sixth was pleased to call the Gowrie "Conspiracy"—that bewildering business, one of the strangest episodes in Scottish history. Not everyone, however, has time and patience to winnow the abundant harvest which the controversy of three centuries has garnered. It would be idle indeed within the limits of such an article as this to essay examination of the material amassed by the several authorities, from the King's own *Discourse of the Unnatural and Vile Conspiracie,* to his latest biography by Mr T. F. Henderson, but briefly to recall some aspects of the mystery may profitably be attempted. The interested reader will find all the contemporary evidence printed by Pitcairn in the second volume of his *Criminal Trials,* and exhaustive addresses on behalf of Crown and Defence are provided in the respective works of Mr Andrew Lang *(James VI. and the Gowrie Mystery)* and of Mr Louis Barbé *(The Tragedy of Gowrie House),* which contain the last word of modern research on either side regarding the points at issue. I wish that some quite unbiassed historian might be moved to sum up and give judgment; he must needs be inhumanly impartial, for upon this subject it is well nigh impossible not to take sides. I hasten to add that as one inclining to the Ruthven cause I myself am ineligible.

The older generation made acquaintance with the history of their country under the genial auspices of Sir Walter Scott, and doubtless he is largely responsible for the popular conception of the character of James as an amiable and clement prince, with better heart than head, who, if he were not good for much, did nobody any harm. Mr

Lang, though in general of Jacobite leanings, and *quâ* the Gowries a King's man, is under no such delusion as to the real nature of the Wisest Fool in Christendom, of whom, in his *History of Scotland,* he writes: "Despite his ungainly and disgustful ways, his grotesque eccentricities, his pedantries, his shameful favourites, and evil example of tolerating vices, some of which he did not practise, James was probably the ablest man of his house since the death of James I of Scotland." And this, too, was the opinion of his contemporaries: "He was," says one, "the wisest to work his own ends that ever was before him." That Scott should have painted the Royal portrait in such pleasing colours is the more remarkable, as he well knew the truth about his subject, having edited, albeit anonymously, the *Secret History* of that Court, a collection of curious tracts by Osborne, Weldon, and others, which exhibit James in a very different and highly unattractive light. As to the *vraisemblance* of the gentle King Jamie whose placability of disposition Sir Walter extols—virtue as foreign to his character as the many singular and extraordinary graces with which the translators of the Bible credit him—we have but to bear in mind the gusto with which James presided at the tormenting of the Scottish witches accused of imagining his death, his desertion of his mother, his treatment of Raleigh and of Arabella Stewart, his betrayal of Somerset, and the vindictiveness with which he pursued the surviving Ruthven boys, to see how strangely misleading is Sir Walter's estimate.

Next to his gifts as a theologian, James plumed himself upon his ability in what he termed "kingcraft," an art, as practised by His Majesty, indistinguishable from the roguery of lesser knaves. His management of the Gowrie affair, a triumph of ingenuity that still baffles the historian, may be regarded as the assay-piece of the Royal prentice. He was well advised to print and publish his own version of the tragedy so soon as all those who might have contradicted it were either killed or "squared," because, though no one believed his story at the time, subsequent writers, finding in it a convenient, and indeed the only, account of what happened at Gowrie House—

for the contemporary Ruthven vindication was utterly suppressed—have adopted its statements as facts, without regard to their purely *ex parte* character. The King's narrative has too often been treated as an independent report of a mysterious and inexplicable occurrence, whereas it is not really entitled to more weight than the declaration of a suspected person seeking to clear himself of complicity in a crime. Obviously it could have been riddled by cross-examination, for even though he was both witness and judge in his own cause, the Royal apologist failed to make good his case, and its inherent improbabilities and discrepancies, as well as inconsistency with the depositions adduced in its support, have long since been exposed by Lord Hailes and other experts. "The touchstone by which falsehood is detected is inconsistency," says Bentham in his *Rationale of Judicial Evidence*. "In a true narrative inconsistencies are impossible."

To account for the undoubted facts of the affair, three possible hypotheses have been suggested: (first) that the two Ruthven brothers, having formed a plot to murder or kidnap James, lured him to Gowrie House upon a false pretence, and themselves fell into the pit they had so treasonably digged; (second) that James, having formed a plot to destroy the Ruthvens, went suddenly to Gowrie House, where by the King's contrivance his involuntary hosts were done to death; and (third) that the slaying of the Ruthvens was fortuitous, the unpremeditated result of something that happened between James and the younger brother, in which the elder became involved, and both perished. With regard to the first, or Royal hypothesis, however, James cannot be allowed to ride off upon the more plausible alternative of abduction, as propounded by Dr Robertson and endorsed by Mr Lang. Murder, and murder only, was the King's explanation at the time—and who should know better than he?—to establish which all his pretended proof was framed; the kidnapping card was not played until the falseness of the first move was found, and the ingenious speculations of later advocates must not blind us to the fact. Mr Pinkerton's modification of this theory, which makes the Master of Gowrie alone the plotter, his brother, the Earl,

sharing his fate, though not his guilt, need not detain us. The difference between the Gowrie tragedy and other historical mysteries is that, whereas usually a choice of keys is offered, any one of which fits with more or less precision the ambiguous lock, here neither of the two first will adequately do so. There is no more trustworthy evidence of a plot by the Ruthvens against the King than there is of a plot by him against them, and the improbabilities of the one hypothesis are as great as those of the other. James and his backers, with everything their own way, failed to prove the existence of any such plot, or to give a credible explanation of the known circumstances, but the position of the dead brothers' defenders is no better; neither supposition explains all the facts. Whether the third, that of an accidental brawl, as ably set forth by Mr Andrew Bisset in his *Essays on Historical Truth,* does so or not is another question, to which we shall return.

On the assumption, however, that despite the lack of proof there was, upon one side or the other, an actual conspiracy of some sort, what are the motives which the upholders of the diverse theories allege?

It is argued for the King that *lèse-majesté* ran in the Ruthven blood. Patrick, Lord Ruthven, and his son William, afterwards first Earl of Gowrie, the grandfather and father of our Ruthvens, took part in the murder of Rizzio; the father insulted Queen Mary at Lochleven; he was the protagonist of the Raid of Ruthven, and for his dealings with Mar and Angus was beheaded in 1584, a private confession, which under promise of pardon he had been induced to write to James, being used to secure his doom. But the death of "Greysteil" was effected by a faction, in whose hands the young King was a mere tool, and the restoration in the following year of the late Earl's forfeited estates and honours must have assuaged to some extent his family's resentment. Again, the relations between England and Scotland were then more than wontedly strained; Gowrie had been courteously entreated by Elizabeth as he passed through her dominions, and he was believed to be a rival claimant to her crown—a vulgar error, finally exposed by Maidment in 1831; the party of the Kirk was at variance with James, and Gowrie was the

idol of the godly. But while there is some evidence that these matters earned for the powerful young lord the disfavour of his prince, there is none that they stirred in Gowrie a fatuous and futile ambition. Revenge, then, with an hereditary turn for high treason—James's original story—holds the field.

On the other hand, the Ruthven apologists maintain that James feared and hated the brothers for reasons public and private. He undoubtedly was indebted to Gowrie in a sum of over £80,000, being, with interest, the expenses incurred on the King's behalf by the late Earl as treasurer, and on 20th June 1600 he had granted Gowrie a year's exemption from legal pursuit for the Royal debts. On 5th August, as we shall see, the relief was made perpetual. How James, in the then state of his finances, was at the year's end to find the money does not appear, but the murder of the wealthy creditor and the forfeiture of his great estates rendered the point superfluous. Further, Gowrie had in the Convention of 26th June boldly and successfully opposed the King's demand for 100,000 crowns, whereat James, in dire need of money to prosecute his claim to the English throne, actually raged, as as Nicolson, the English resident at Holyrood, reported to Sir Robert Cecil. There were also the various contemporary rumours regarding the relations of the Earl or his brother with the Queen, which inspired the romantic pens of Mrs Eliza Logan and Mr G. P. R. James. Gowrie, however, was but twenty-two, and had been only three months in Scotland after an absence of six years at the University of Padua, while the Master, a handsome lad of nineteen, was more likely to find favour with his sovereign lord, whose appreciation of youth and good looks was notorious, than with Anne of Denmark, then within four months of the birth of her second son. Still, that James's curious character was on occasion capable of marital jealousy would appear from the fate of that bonny Earl of Moray who, traditionally, was the Queen's love.

At the beginning of August 1600 the position of the chief actors in the tragedy of the 5th was as follows: the Court had removed from Holyrood to Falkland, James, as he tells us, being daily at the buck-hunting during the

pleasant summer weather. Gowrie, after the scene at the Convention, had withdrawn to his castle of Trochrie in Atholl, accompanied by his brother Alexander, who, for reasons unexplained, also had left the Court. The Master is said to have held the office of Gentleman of the Bedchamber, but by the King's account the appointment, though applied for, had not been made. Their sister, the Lady Beatrix Ruthven, one of the Maids of Honour, remained in attendance on the Queen. So early an authority as Calderwood records that while the Earl was hunting in Strathbraan, fifteen days before the fatal 5th, the King sent to him "sindrie letters," supposed to contain an invitation to Falkland, "which letters were found in my lord's pocket at his death, as is reported, but were destroyed," and on 11th August Sir John Carey, Deputy-Governor of Berwick, wrote to Cecil: "Wher it was sayed that the Earle's brother came to Fauckeland to invit the Kinge, it is nowe knowen that the Kinge sent for him, and he toweld his brother the Kynge had sent for him—whoe commanded him presentley to goe to the Kinge." Timely means were taken to discount this rumour, so subversive of the King's story; and Craigengelt, the Earl's house-steward, examined on 16th August, denied under torture that "he knew any man or page to come from Court to my lord," either in Atholl or St. Johnstoun (Perth). The research of Mr Pitcairn, however, discovered that in the accounts of the Lord High Treasurer the last two entries for July 1600 are of payments to Royal messengers from Edinburgh and Falkland respectively, with "clois [private] letteris" to the Earl and the Master of Gowrie. What, on the eve of the tragedy, James so wrote severally to the brothers we can never know, for those letters were destroyed by somebody; if we did, it is almost certain that the problem would be solved, for that they contained the missing key is hardly to be disputed. On Saturday, 2nd August, whether in response to the King's summons or not, the brothers came back from Strathbraan to their mansion in Perth. No other member of the family was then in Gowrie House, which, since the Earl's return from abroad, had been practically unoccupied. The Countess and her two younger sons were at

Dirleton Castle, their East Lothian seat, where, as appears from the evidence, Gowrie and his brother, so soon as the Royal pleasure was known, intended to join them, most of the Earl's men and all his provisions being already there.

Early in the morning of Tuesday, 5th August, Alexander Ruthven, Master of Gowrie, "a learned, sweet, and hurtless young gentleman," rode from Perth to Falkland. He was accompanied by his cousin, Andrew Ruthven, and also, according to the King's case, by Andrew Henderson, the Earl's chamberlain. None of the witnesses examined saw Henderson at Falkland, and no proof of his presence there exists beyond his own word. At the stables, before the hunt began, the Master had a private interview with James, of which the King's account is briefly as follows:—Ruthven said that he had met on the previous night in the fields near Perth a mysterious stranger "with a cloak cast about his mouth," who on being challenged showed signs of dismay which aroused his suspicions. Seizing him by the cloak the Master found "a great wide pot to be under his arm, all full of coined gold in great pieces," whereupon he secured the unknown and his hoard, took him to Gowrie House, bound and locked him in a "privy derned house" (secret chamber)—all this single-handed, and without the knowledge of the Earl or other members of the household—and, finally, at 4 a.m. set out for Falkland to inform the King of his achievement, so that His Majesty might take order with the treasure. This fairy tale was admittedly fictive; the point is whether James or Ruthven was the fabulist. How conceivably anyone could have been taken in by it is another matter. James then entered upon a disquisition as to whether the money might lawfully be deemed treasure trove, and expressed a characteristic delicacy in dealing with it, but the Master considered him overscrupulous. On learning that it was foreign coin James concluded that the man was a disguised Jesuit, the gold being designed to raise a rebellion. Ruthven urged the King to start at once for Perth, as any delay "would breed leisure to the fellow to cry or make such a din as would disappoint the secrecy of that whole purpose"—the prisoner, by the way, having already had several hours'

opportunity to do so; but James said he would think it over and give his answer at the end of the hunt, which, being "a great and sore chase," was not finished till after eleven. Such is the King's account of what passed between him and the Master at this time. The buck killed, James decided to go, and without staying *faire la curée* as was his wont, or even waiting for a fresh horse, set out for Perth, the Duke of Lennox, the Earl of Mar, the Abbots of Lindores and Inchaffray, Sir Thomas and James Erskine, Dr Herries, his physician, John Ramsay, his favourite page, and divers other gentlemen and servants, including two lackeys from the palace, the porter, and the keeper of the ale cellar, either accompanying or following, to the number of twenty-five in all—a goodly company for taking order with one imprisoned Jesuit. James says that all were without arms, "except swordes, no, not so much as daggers or whingers," yet Ramsay, at least, had a whinger, of which, as we shall see, he made effective use. The courtiers understood the object of the ride to be the apprehending of the Master of Oliphant, "who had lately done a vile and proud oppression in Angus," but at the Bridge of Earn James says he informed the Duke of Lennox that his real purpose was "to get a pose [secret hoard of money] in Perth." He thereupon related the fable of the pot of gold, and asked Lennox what he thought of it. The Duke answered, "I like not that, sir, for it is not likely"; and on James suggesting that perhaps the Master was mad, Lennox said "he knew nothing of him but as of an honest, discreet gentleman." The King states that, suspecting some treasonable device, he bade the Duke follow him when he passed with the Master to inspect the treasure.

Meanwhile the Earl of Gowrie, having attended sermon and transacted some ordinary affairs, sat down to dinner at half-past twelve with three neighbouring lairds. During the meal the Master, who had left the Royal party within a mile of Perth, came in and announced the King's approach, whereupon the Earl, as Provost of the town, with his guests and servants hastened out to meet His Majesty at the South Inch. That he exhibited no signs of overwhelming joy at the Royal invasion is not sur-

prising. He told Rhynd, his old tutor, that he knew of no business which could bring the King to Perth, and his relations with the Sovereign and knowledge of James's character might well give him cause for alarm. Gowrie House, as we have seen, was not in commission; there was no provision for entertaining Royalty, and James had to wait an hour for his dinner, while Craigengelt, the steward, sent out for a grouse "and caused make ready a shoulder of mutton and a hen." As Henderson deponed that on his alleged return from Falkland at ten o'clock he had warned the Earl that the Court would arrive "incontinent [immediately], those who believe in Gowrie's guilt see in his lack of preparation a hypocritical pretence of surprise; but, as Lord Hailes has pointed out, if the Earl meant the King ill he would hardly have entertained him in a manner capable of creating suspicion; James might have taken umbrage and left at once. Before dinner Craigengelt asked the Master why the King had come to Perth, to which Ruthven replied, "Robert Abercromby, that false knave, had brought the King there to cause His Majesty take order for his debt." Craigengelt's deposition was suppressed by the Crown, and Abercromby, the Court saddler, was not examined to contradict this statement, which facts raise a strong presumption of its truth. The "longsomeness" of the waiting should, one would think, have afforded James an excellent opportunity to interview the stranger, for which purpose alone he had come so fast and far; and as his failure to do so might create, on those who knew his inquisitive and rapacious nature, an awkward impression, he explains that he proposed it, but was dissuaded by the Master—hitherto represented as indecently urgent—"as there was no haste yet for an hour." So His Majesty "cry'd for a drink," and passed the time in conversation with the Earl, whose manner James thought uneasy, as doubtless it was.

Built in 1520 and demolished in 1807, Gowrie House faced the Speygate, surrounded by gardens extending to the Tay, the L-shaped building to the south being that part with which we are concerned. From the courtyard the main entrance was by a staircase in the angle of the L, the first storey containing the dining-room in which the

King's dinner was served, and the large hall where the courtiers dined. On the storey above this space was occupied by the great gallery, and by a room called the gallery chamber, accessible either from the principal stair or by a smaller one named the Black Turnpike, entering directly from the Court. There opened off the gallery chamber a little "round" or turret used as a study, with windows looking into the quadrangle and the street.

The King dined alone, Gowrie, his brother, and the rest standing about the board until the conclusion of the Royal repast, when the courtiers were themselves served in the hall, Gowrie returning to James, who sent him back with a grace-cup to drink the King's "scoll." Then the King rose, and, accompanied by the Master, passed through the hall in full view of the company, and went up the main staircase to the storey above. James says he bade Ruthven summon Sir Thomas Erskine to atend him, but that the Master merely feigned to do so. Erskine in his evidence at the trial states that after the fracas he said to the King, "I thought your Majesty would have concredited more to me than to have commanded me *to await your Majesty at the door*, if ye thought it not meet to have taken me with you," which can only mean that Erskine followed them upstairs as directed, and remained outside the door between the great gallery and the gallery chamber, which was locked, by whom we do not know. James says the Master led him to the little study through several rooms, Ruthven successively locking all the doors behind him; but a glance at the plan of Gowrie House* shows that the only rooms they traversed were the gallery and the gallery chamber, and from the evidence it is clear that the door between those two rooms alone was locked. Lennox rose to follow the King according to his former order, but Gowrie remarked that "His Majesty was gone up quietly some quiet errand"—the obvious meaning of which is preserved in local tradition. As they left the hall the Master, addressing the company, said in James's presence, "Gentlemen, stay, for so it is His Highness' will." That James, having already expressed to Lennox his doubts of Ruthven's sanity and his fear of some

* See Frontispiece.

attempted treason, should in such suspicious circumstances allow himself to be separated from his suite, and go alone and unarmed with the Master, who wore a sword, to a remote apartment, is, to borrow a phrase of Mr Lang, almost beyond the King's habitual and romantic recklessness. In his view, however, the fact that the King had "dined" is a sufficient explanation.

After dinner Gowrie called for the key of the garden, and he and his unwelcome guests went out from the hall to await their Sovereign's leisure in the pleasant alleys beside the Tay. Erskine, we know, was then at the door of the gallery chamber, and Ramsay, holding a hawk brought by one of the Murrays for the King's acceptance, had, as appears from his evidence, made his way upstairs to the great gallery, which he "remained a certain space beholding"—it was the show-place of the house and contained the late Earl's cabinet of pictures. He says nothing of Erskine's presence at the door, but this was not to be expected.

What, meanwhile, had happened when James and the Master reached the "round" is of course the crucial question. The Master's mouth was effectually stopped, and we have but the King's account, unless we accept the dubious evidence of one other witness shortly to be considered. Now this study was not the secret chamber of the fairy tale; it was a room on the second storey, the windows of which overlooked both the courtyard and the front street. Here, says James, they found, not the golden stranger, but a man in armour, from whom Ruthven, putting on his hat, snatched a dagger, and holding it to the King's breast swore "many bloody oaths" that if James cried out or opened the windows "it would presently go to his heart," adding that the King's conscience must be burdened with his (Ruthven's) father's murder. James met this alarming situation with a dignity and courage strangely unlike *son naturel*. He delivered a long address, half lecture half sermon, upon the heinousness of regicide and his own innocence of the late Earl's blood, the effect of which was so moving that the armed accomplice "trembled and quaked like one condemned," while the Master, abashed, uncovering his head, and

assuring James of safety if he refrained from crying out, left the room to take counsel with his brother, and bidding his incompetent assistant "keep the King upon his own peril," locked them in. The Royal account says Ruthven ran down the stairs in great haste to meet the Earl. If he used the main staircase Erskine or Ramsay must have seen him; if the Black Turnpike, which led from the gallery chamber to the court, he could not have seen Gowrie. All the evidence shows that the brothers never met again alive, and with Lord Hailes "I think that Alexander did not run down any stair at all." During Ruthven's brief absence James asked the agitated "assassin" as to his knowledge of this singular conspiracy, to which the man replied that he knew nothing of it, having been locked into the study without any instructions. It is strange that the King did not inquire who he was, and so have avoided the regrettable blunders in identification into which His Majesty was afterwards betrayed. James, who had undertaken not to open the windows himself, then commanded the man to open that which looked upon the street—an equivoque worthy of the vanished Jesuit. At this moment the Master returned, and exclaiming that he could not mend it—"His Majesty behoved to die"—proceeded to execute his fell design by binding the King's hands with a garter. But James's high spirit resented such indignity; he closed with his would-be murderer, held him from drawing his sword, drove him to his knees, and dragged him struggling to the open window—the armed accomplice, ever trembling the while, neither helped nor hindered—through which James thrust his head and bellowed "Treason!" with what breath remained in the Royal body. James was nearly twice the Master's age, and of a frame so feeble that in walking he was wont to lean for support upon another's shoulder; the Master, a strapping vigorous lad, skilled in knightly exercises, was, according to Galloway's sermon preached before the King, of a strength threefold greater than His Majesty. The reverend orator calls James's feat a miracle, and I so far agree with him.

To the courtiers eating cherries in the garden came Mr Thomas Cranstoun, the Earl's equerry, with a report that

His Majesty had mounted and was riding through the Inch. Cranstoun, afterwards tortured and hanged, with his dying breath declared that he did not give out, but only repeated, the bruit. This doubtless was good hearing for Gowrie, who at once cried, "Horse! horse!" but Cranstoun said, "Your horse is in town." So the whole party went through the quadrangle towards the stables. Where was the King's horse? asks Mr Lang, and history has no answer. Yet if his horse was then in the stables, James had not ridden off, and there is no suggestion that it was missing. Had Gowrie formed a design against the King, the removal of his horse was an indispensable preliminary. At the outer gate the porter, Christie, who had been but five weeks in Gowrie's service, told them that the King had not yet left the house. "You lie, knave!" cried Gowrie; "he is furth at the back gate, and through the Inch." "That cannot be, my lord," said Christie, "for I have the keys of all the gates." If this were indeed the Earl's plot, here surely was another strange hitch in the stage management! Turning to the Duke, Gowrie remarked that the King was always away first. "Stay, my lord," he continued, "and I shall gang up and get the verity thereof." So saying the Earl ran up the main staircase, "and incontinent [immediately] came again to the close," saying that His Majesty had departed. James and his advocates allege that the brothers had met on the stairs, but this from the evidence is plainly impossible. Either Gowrie in his eagerness to rid his house of the Royal crowd only pretended to inquire, or he was misinformed by Sir Thomas Erskine, if Erskine was still in the gallery. Could we tell who really started the bruit of the King's departure we should know much. Mr Lang, however, regards the incident as incompatible with Gowrie's innocence. While the suite stood about the gateway "advising" where to seek the King, the voice of James cried from above, "Help, my Lord Mar! Treason! treason! I am betrayed; they are murdering me!" and the courtiers, looking up, beheld at the turret window their Sovereign's head, "wanting his hat, his face being red, and a hand gripping his cheek and mouth." Lennox, Mar, and most of the others rushed back to the house, and

up the main staircase, through the gallery, to the door of the gallery chamber, which they found locked. A ladder was got to break it in, but this proving ineffectual, hammers were sent for, and the house rang with the crash of their assault.

"Led doubteslie be [by] the Spreit of God," as the Lord Advocate avers, young Ramsay, the hawk still upon his wrist, ran up the Black Turnpike from the courtyard, and, bursting open the door at the top, entered the gallery chamber, where he found James and the Master "striving and wrestling together." "Strike him high!" cried the King, as the page appeared in the doorway, "he has on a pyne-doublet [coat of mail]"; and Ramsay, casting off the hawk, drew his dagger and struck the Master twice. The wounded boy, bleeding from stabs in the face and neck, was then hurled down the turnpike stair. James, as is well known, was an arrant coward; yet on this occasion so cool and collected was he that while Ramsay attacked the hapless lad, His Majesty set his foot upon the jesses of the hawk to prevent her flying through the open window. It is to be noted that even on the admission of Ramsay, Ruthven's attitude was purely defensive. He was on his knees, his sword undrawn, and his hand "upon His Majesty's face and mouth"—plainly to prevent James from crying out. The only independent evidence of the presence of the armed phantom is contained in the last paragraph of Ramsay's deposition: "That when the deponent first entered within the chamber, he saw a man standing behind His Majesty's back *whom he noways knew, nor remembers what apparelling he had on;* but after that this deponent had stricken Mr Alexander, he saw that man no more"—nor, it may be added, did anybody else. Henry of Navarre deemed Paris worth a Mass; John Ramsay may have thought an earldom worth a man in the turret.

At the moment of the King's cry, Erskine—he was now in the courtyard—and his brother, shouting, "Traitor, this is thy deed! Thou shalt die!" laid hands upon the Earl, who, standing bewildered by the gate, exclaimed, "What is the matter? I ken nathing." But some of Gowrie's servants "rugged" the Erskines from him, and

he ran a few yards down the street, drew his "twin swords" from their scabbard, and shouting, "I will either be at my own house or die by the gait," ran back to the courtyard and up the Black Turnpike, preceded by Cranstoun, and followed, as is alleged, by three or four of his servants. Meanwhile Ramsay had from the turret window called to Sir Thomas Erskine to come up the turnpike, which he did, accompanied by Dr Herries and George Wilson, Erskine's man. Half-way up the stair they met the Master of Gowrie wounded and bleeding, whereupon Erskine cried, "This is the traitor, strike him!" which was done, the dying lad exclaiming as he fell, "Alas! I had na the wyte [blame] of it." They saw nothing of the man in armour. When they reached the chamber, James, for safety, was shut into the "round," which was no sooner done than the Earl and his men, rushing up the stair over the dead body of the Master, engaged the King's party with their swords. Erskine says he "heard my Lord of Gowrie speak some words at his entry but understands them not," which is no less strange than regrettable. The odds were apparently five to four, though Calderwood asserts that only Cranstoun was with the Earl, the others not going up till after he was killed. Gowrie was an expert swordsman, well able to hold his own, yet Ramsay, to whom he found himself opposed, ran him through the heart, and he fell dead—"without once crying upon God," as James is shocked to say. Someone, so Sir William Bowes, the English Ambassador, reported at the time, called out that the King was slain, whereupon the Earl "shronke from the pursuyte," and as he dropped his points Ramsay slew him.

At this time the door of the gallery chamber resounded beneath the hammer strokes of Lennox and the rest. A panel was beaten in, through which a hammer was passed to the King's party, who broke the lock, when the Royal forces were reunited. As to what became of the key, which, if the Master had locked the door, must have been in the room or in his pocket, the evidence is silent; but upon neither of the bodies, as we shall see, was any key found. James may have locked the door himself; the spring-lock theory, an ingenious creation of Mr Lang's

fancy, finds no support in the evidence. The Earl's men, their master slain, fled or were driven back down the turnpike; James came out of the closet, and kneeling with the courtiers by Gowrie's corpse upon the bloody floor, "His Majesty out of his own mouth thanked God of that miraculous deliverance and victory, assuring himself that God had preserved him from so despaired a peril for the perfecting of some greater work behind to His glory, and for procuring by him the weal of His people that God had committed to his charge." To such as are satisfied of the King's' blood-guiltiness in this matter the scene is one of the most amazing in history.

Gowrie was Provost of Perth, and much beloved by the burghers. These, summoned by the ringing of the town bell, now surrounded the house, clamouring for their hero, and despite the presence, accidental or otherwise, in the town that day of three hundred Murrays, King's men, under Tullibardine, things began to look ugly for the pious monarch. "Come doun, thou son of Seigneur Davie; thou has slain an honester man nor thyself!" "Give us our Provost, or the King's green coat sall pay for it!" were among the angry shouts of the citizens that rose to the bloody chamber. But His Majesty himself graciously appeared at the window and bade them begone in peace, which, after two hours' uproar, they grumblingly did. The dead bodies of the brothers having been searched, and nothing found upon them "but [in the Earl's pocket] a little close parchment bag, full of magical characters and words of enchantment," were committed to the care of the magistrates to be preserved against their trial; and at eight o'clock, the tumult in the town being then abated, His Majesty was smuggled out by the back gate to the river and rowed to the Inch, whence, escorted by Tullibardine and the Murrays, through a very dark and rainy night, he took the road for Falkland.

The chronology of the affair is curious. James arrived at Gowrie House about one o'clock, his dinner was not ready till two, and another hour would suffice for its consumption. He left at eight, the tumult in the town having lasted for two hours, which fact infers that Gowrie was killed about six o''clock. Yet the events of the intervening

three hours seem to have occurred immediately after James rose from table, and, as recorded, would appear to have occupied not above half an hour.

Pending the greater work for which the King deemed himself providentially preserved, his first act was to dispatch next day a troop of horse to seize the two boy-brothers of the Earl, then with their mother at Dirleton. Fortunately for them they received due warning and fled across the Border, escaping for the time the tender mercies of their "gentle and placable" Sovereign. One died abroad; the other, on James's accession to the throne of England, was apprehended, and without trial was imprisoned in the Tower for nearly twenty years.

By nine o'clock in the morning of Wednesday, 6th August, the bruit of the doings at Perth reached Edinburgh. An hour later a letter from the King to the Privy Council arrived, which was read to the ministers of the city, who were ordered to convene the people in the churches and to hold services of thanksgiving for His Majesty's "miraculous delivery from that vile treason." This they declined to do, on the ground that the several reports of the affair "fought so together that no man could have any certainty"; but they agreed to celebrate the King's deliverance from a great danger. Later, James took them in hand himself, to what effect we shall shortly see. Bonfires blazed officially on Arthur's Seat, but Calderwood records that many doubted of the report that was made by the King and courtiers.

James lost little time in reaping the fruits of his advantage. Gowrie's great estates were confiscated, and all who bore the name of Ruthven were banished. The Earl's retainers naturally fled; but Cranstoun, Craigengelt, and another, who had been wounded in the fray, were taken, tortured, tried, and executed, "yitt confessed they nothing which might smell of knowledge of anie conspiracie." Mr Rhynd, the Earl's old tutor, was "extremely booted," but nothing was extracted from him regarding his pupil's guilt. He escaped with his life by opining that the Earl kept the magical parchment for no good purpose. Indeed, from the evidence first collected, James seems to have been less concerned to prove Gowrie a traitor than, in

Galloway's forceful phrase, "an incarnate devil in the coat of an angel, a studier of magic, and a conjuror with devils, many of whom he had at his command."

The truth of the Royal narrative was generally questioned; it became of vital importance to the Court party that some corroboration should be forthcoming; and as no evidence could be more material than that of the man in armour, whose mysterious behaviour so heightened the interest of the King's account, a proclamation was issued for his apprehension, in which that retiring murderer was described as "a black, grim man," named Oliphant, of whom we shall hear again. Failing this gentleman, two other members of the Earl's household were unsuccessfully denounced. Then a fourth, Henry Younger, was selected; but Henry, with a confidence in the virtue of an alibi as strong as old Mr Weller's, set out from Dundee, where he had been at the time of the tragedy, "to make his purgatioun to the King." Unfortunately he encountered on his way a party of the King's horse sent to arrest him, and, hiding in a corn-rig, was slain by their captain. His body was taken to Falkland, where, according to Calderwood, James recognised it as that of the wanted man. But the alibi was public property, so another subject had to be sought for.

Even in the bosom of his family the good King's word was denied that loyal acceptance to which it was entitled. The Queen, who differed from her liege lord in most matters, refused to believe his story or to give up Beatrix Ruthven, and there were painful scenes in the palace. Melville in his diary records: "At that time, being in Falkland, I saw a funambulous Frenchman play strange and incredible pratticks upon stented tackle in the Palace-close, before the King, Queen, and whole Court. This was politiklie done to mitigate the Queen and people from Gowrie's slaughter." The tight-rope dancer's feat, however, failed to divert attention from James's own more striking performance.

On Monday, 11th August, His Majesty crossed the Firth and heard sermon at Leith, during which his behaviour is said to have been as usual "unreverent." In Edinburgh, where his chaplain, Patrick Galloway, that flattering

preacher, cursed the dead brothers at the Cross, he was all attention. Galloway in his discourse made the dramatic announcement that he had discovered the man of mystery, from whom he had that morning received a letter offering to make a clean breast. James expressed no surprise on learning that the hired bravo was, after all, Andrew Henderson, chamberlain to the late Earl of Gowrie, who, as already mentioned, is said to have been with the Master at Falkland. As on that occasion the fact of his alleged presence rests solely upon his own assertion. The proclamation had specified a black, grim man; Henderson was a ruddy-faced little fellow with a sandy beard, whose name, when previously submitted for James's approval as that of the armed phantom, His Majesty had pronounced unsuitable: "He knew that smaick well enough, it was not he." Such were the resources of "kingcraft" that this fact did not prevent him from endorsing Galloway's discovery.

James was very wrath with the godly for their scepticism regarding the conspiracy, and next day he summoned the city ministers to appear before him in Council. They stated respectfully that they were not yet fully persuaded, so they were forbidden under pain of death either to preach or to come within ten miles of Edinburgh. A month of this so far resolved their doubts that they came to the King and professed to be convinced, all except Mr Robert Bruce, whose discussions with James are preserved by Calderwood. Bruce had throughout the better of the argument; he wrung from the Royal disputant an admission that he (James), had he chosen, could have spared the Master's life and brought him to trial, and he criticised shrewdly the statement of Henderson, but expressed his willingness to accept it if that worthy were hanged, adhering to his tale! James, however, was not going to deprive himself of a valuable witness merely to pleasure a minister; the experiment, moreover, would have been attended with obvious risks; so, as Mr Bruce was too big a man to burke, he was banished from Scotland, and died an unbeliever.

By the end of August James and his advisers were able to publish his *Discourse of the Unnatural and Vile Conspiracie,* to which were appended the depositions of James

Wemyss of Bogie, Mr William Rhynd, and Andrew Henderson, taken at Falkland before the Privy Council. The two first bore reference to the Earl's alleged sorceries, the third, though more relevant, was hardly less incredible. The depositions of Rhynd and Henderson were both taken on 20th August, and the fact that the tutor was " sorelie tormented " with sundry " chops " in the boots may have stimulated the chamberlain's memory. On many points Henderson flatly contradicted the Royal narrative as well as the evidence of Ramsay; but the *Discourse,* anticipating criticism, observed that such discrepancies were " uttered by the deponer in his own behoof, for obtaining of His Majesty's princely grace and favour." If James was telling the truth he would surely have been better served had his witnesses followed suit. " Falsehoods," says Bentham, " to escape detection, must be clear of inconsistency."

Summonses of Treason, at the instance of Sir Thomas Hamilton, His Majesty's Advocate, had been issued in August against William Ruthven, the boy-heir to the earldom, Alexander and Harry Ruthven, Hugh Moncrieff and Patrick Eviot, who were alleged to have assisted Gowrie in the fray, and Andrew Henderson, of whom none but the last was amenable to justice. On his arrival in Edinburgh Henderson was committed to the Tolbooth, but before the trial his name was by the King's command deleted from the summons to enable his vital testimony to be received.

On 30th October the dead bodies of the Earl and the Master of Gowrie were " transported " to Edinburgh to be placed at the Bar, according to the ghastly practice of the time; and, after certain preliminary formalities, the trial began before the Court of Parliament on 15th November. The depositions of the witnesses examined before the Lords of the Articles were produced by the Lord Advocate and read in presence of the King's Majesty. These included, in addition to the courtiers' testimony, a new statement by Henderson, in one important respect inconsistent with that already published. In his first deposition the Master's avowed purpose was to murder the King: " Remember ye of my father's murder? Ye shall now die for it "; in his second, kidnapping only was intended:

"Sir, you must be my prisoner; remember on my father's death." These discrepancies, as well as those above mentioned, have been fully dealt with by Mr Barbé and earlier historians, and a detailed examination of them would take us too far. It is sufficient to note that Henderson, declining the rôle of frightened onlooker assigned to him by James, asserted that he twice saved the King's life from the Master's dagger, and rendered such signal service that it is difficult to see why, instead of being forthwith rewarded, his name was ever in the summons at all. The Court unanimously found the dead brothers guilty of treason, passed sentence of forfeiture against their property, declared their posterity infamous, and ordained their bodies to be hanged, drawn, and quartered at the Market-Cross of Edinburgh, and their members to be affixed to the "most patent parts" of Edinburgh, Perth, Dundee, and Stirling.

By a curious coincidence, on the very day that the sentence was executed, when, as Birrel in his diary records, "their twa heidis [were] set upone the heid of the prisone house [the Tolbooth], there to stand till the wind blaw them away," the Queen gave birth to her son Charles, with whose "comely head," in the fulness of time, a political blast was to deal as rudely.

Not content with this posthumous vengeance, the obedient Estates passed various Acts disinheriting the younger Ruthvens and their descendants, abolishing the name of Ruthven for ever, and appointing the 5th of August to be observed in all times and ages to come as a day of public thanksgiving for the King's deliverance. This pious festival has, in these degenerate days, fallen into desuetude. The famous turret was ordered to be pulled down and replaced by an inscription commemorative of His Majesty's escape. The spoils of the Gowries were distributed among the Crown witnesses. Sir Thomas Erskine got the estate at Dirleton, was raised to the peerage with that title, afterwards becoming, by the King's favour, Viscount Fenton and Earl of Kellie; Ramsay was knighted, pensioned, and, his merits growing with his years, was later created Viscount Haddington and Earl of Holderness; Dr Herries got a knighthood and

the Barony of Cousland; while George Wilson, Erskine's man, as Birrel relates, "was made gentleman." To such good purpose had these four played their parts in the grim drama of the gallery chamber. The Rev. Mr Galloway was not forgotten; and Andrew Henderson was pensioned, reinstated in his office as Chamberlain of Scone, and given the lands of Hallyards. The Murrays, too, had spent a profitable day. Tullibardine, who "after the fact was committed" danced for joy in the courtyard of Gowrie House, received the Sheriff-ship of Perth; Sir Mungo Murray, the castle and barony of Ruthven, the name being changed to Huntingtower; and Sir David Murray, the lordship of Scone. Why was Sir Thomas Erskine, who slew neither the Earl nor the Master, rewarded more munificently than Ramsay, Herries, and Wilson? Mr Bisset's conjecture is that Erskine, like Somerset, was possessed of one of those costly secrets in which King James had the misfortune to be concerned.

On a careful consideration of his statements and of the relative evidence, I am inclined to think that perhaps Henderson may, after all, have been at Falkland for the purpose of being sent back to tell Gowrie how the Master was received by the King. If so, the fact alone would account for his flight, which Mr Lang considers inexplicable unless he were the man in the turret. He states that on his return to Perth the Earl's first question was, "How His Majesty took with the Master his brother?" to which he answered, "Very well; that His Majesty laid his hand upon the Master's shoulder"; and that Gowrie then asked, "Who was with His Majesty at Falkland?" —a perfectly natural question. The words were spoken in the hearing of George Hay, Prior of Charterhouse, who was with the Earl at the time and swore to them at the trial. James says he did not make up his mind to go to Perth until the hunt was over at eleven; Henderson reached Gowrie House about ten. It is obvious that he could report nothing further than Ruthven's favourable reception; if he *did* announce the King's coming, he then knew more than the Master. Andrew Ruthven, who admittedly was at Falkland, could have settled the matter at once; but, for some unknown reason, his evidence,

though available, was not required. As to Henderson's alleged presence in the turret, however, I am as sceptical as was the banished Bruce. Henderson states that after the King's arrival he was ordered to get from Rhynd the key of the gallery chamber; but the old tutor, although "extremely booted," does not corroborate this assertion. His account of how he was told to arm himself in order to apprehend a Highlander—"to mak' breeks for Maconilduy," as he puts it—and was then locked into the "round" by the Master without further orders, is, on the face of it, incredible. However foolhardy the Ruthvens may have been, no sane man would have trusted an untried and uninstructed accomplice in so grave a matter as an attempt upon the Sovereign's liberty or life. If he failed them and sided with the King, they but increased their damnation.

Again, Henderson says that he left the chamber by the turnpike at the moment when Ramsay attacked the Master, crossed the courtyard to the entrance gate, where he saw Gowrie with two swords, and then went straight to his own house. If this were true he would surely have met Erskine, Herries, and Wilson either on or near the stair, and have been seen by some at least of those—King's men or Gowrie's—who thronged the quadrangle. But only one person, a Perth notary named Robertson, was found to say he saw Henderson coming out of the turnpike "over the Master's belly," and spoke to him. If this be so, Henderson *must,* of course, have passed Erskine and the others on the stair, which may account for the fact that the notary omitted this vital statement when he gave his evidence at the trial. In his letter to Galloway, Henderson states that while the King and the Master were wrestling he opened the door, and went down by the Black Turnpike *before the King's servants came up,* which disagrees both with Ramsay's and his own depositions. This point, so far as I know, has hitherto been overlooked. It is impossible that anyone telling a true story could have fallen into such contradictions so soon after the event. I think that Henderson—a man, as Archbishop Spottiswood records, "of a servile spirit and apt enough to do mischief"—was, by another of the Rev.

Mr Galloway's miracles, induced to assume the rôle of the armed phantom, which it had proved so difficult to fill, in hope of obtaining a reward and to escape the fate of his colleagues Craigengelt and Cranstoun. Spottiswood remarks that Henderson "looked ever after that time as one half distracted"; and the new Lord Scone, in whose service he was retained, wrote of him to James: "He was never wise, and he has lost a good part of the wit which he had; for it appears he is not his own man." Such was the quality of the accomplice chosen by Gowrie for the execution of "an high and dangerous purpose."

Among the Ruthven retainers who fled when their master fell was one Mr Robert Oliphant—that black, grim man whom James, in his first proclamation, declared to be the spectre of the turret. This gentleman, like poor Henry Younger, had his alibi, but preferred to take no risks. One day in December 1600, Oliphant, who was lodging in the Canongate of Edinburgh, told his landlord that he had been approached by Gowrie to play the part so inefficiently performed by Henderson; that he had declined, with good reason, to accept it; and that Henderson "undertooke it and yet fainted." The landlord gossiped, so Mr Robert prudently "again fled." Eight years later he was arrested in England with money upon him, and lay in prison for nine months as guilty of foreknowledge of the Gowrie conspiracy. In 1609, however, James wrote: "We have tried the innocency of Mr Robert Oliphant and have freed him from prison," and the Scots Privy Council was ordered to see his portable property restored to him. Mr Lang, who first called attention to Oliphant's case, regards the incident as "decisive [of the truth of Henderson's statement] if we accept the evidence." Personally, I confess that the affair of Mr Robert leaves me cold. Why did he not tell his tale to the Government when they were ransacking the highways and hedges for evidence confirmative of the King's account? Had he done so, like Henderson he would have shared the Gowrie spoils; by concealing his foreknowledge of the plot he perilled his neck if the story came out, as actually happened.

Mr Lang has another new string to his controversial

bow, not, in my opinion, any stronger. It is admitted that a reply or counterblast to the *Discourse* was printed and published by the Ruthven party at the time, but was instantly suppressed by the Government to such good purpose that no copy is known to exist. Mr Lang discovered in the Record Office a manuscript which he identifies—as I venture to think, on insufficient grounds —with the lost Ruthven vindication. The document is obviously a private letter, not a formal treatise, written in the first person singular, and appears to have been addressed to the English Governor of Berwick by some ill-informed Ruthven partisan. Its chief value for Mr Lang resides in the admission of Henderson's presence at Falkland, and its rich vein of inaccuracies and mis-statements affords that incisive writer material for an amusing chapter. But the very mendacity of the document is the best proof that it is not the burked vindication; had that been so, suppression was superfluous; James and his advisers could have refuted it as easily, if less brilliantly, than Mr Lang.

On the death of Elizabeth in 1603 James mounted the throne of England, and in the fierce light which beats upon an occupant of that high seat His Majesty showed to small advantage. "Kings are Gods on earth" was his blasphemous dictum, yet seldom has monarch had less title to mere humanity. With but one incident of his English reign, however, are we here concerned—the epilogue to the Gowrie tragedy, produced by James and his ministers at great expense of truth and justice to make the earlier piece, as was said at the time, "hang more handsomely together." Scepticism regarding the Royal narrative both at home and abroad continued unabated. Elizabeth, "his dearest sister," had not concealed her incredulity. She wrote sarcastically to James that as Gowrie had so many devils his familiars she supposed there were none left in hell. Divers local critics had been mutilated and hanged, but with others not numbered among the happy subjects of the good King it was more difficult to "take order." The Court thought the *Discourse* a good joke—*"la bourde est belle!"* and the French ambassador, M. de la Boderie, considered that the

affair was "a little aromatic, and told different ways." Osborne wrote: "No Scotchman you could meet beyond seas but did laugh at it, and the politicians said the relation in print did murder all possibility of credit." Something had to be done to silence scoffers, and in a fortunate hour the Government laid hands on an obscure country writer, one George Sprot, who it was hoped could tell great things anent "the unnatural and vile conspiracie." This man, a shyster and specialist in forgery, had been local "doer" or law agent for the late Robert Logan of Restalrig. He practised in Eyemouth, conveniently near Fast Castle, the grim fortalice of his client. Restalrig, that jovial old ruffian, "ane godless, drunkin, deboschit man in his tyme," as Wodrow quaintly terms him, of whose Lothian hold a fragment survives in the farmhouse above Lochend, carried his rascalities elsewhere in July 1606. Shortly before his death he sold certain of his lands —Restalrig, in Lothian, to the Scottish Secretary, Lord Balmerino, and Flemington, in Berwickshire, to the Prime Minister, the Earl of Dunbar; *but the price had not been paid,* and these Ministers stood respectively indebted to Logan's heirs in sums of 18,000 and 15,000 merks. If, therefore, by a judicial juggle, Logan were attainted of the Gowrie treason and his estates forfeited, James's right-hand men in Scotland would combine their own business with their Sovereign's pleasure.

In April 1608 Sprot was arrested, and was frequently examined before the Privy Council. He confessed foreknowledge of the conspiracy, derived from a correspondence between Logan and Gowrie, to which he had access in the hands of Restalrig's messenger, who, strangely enough, was unable to read. He quoted from memory excerpts from a letter of Gowrie to Logan, as also Logan's reply, both of July 1600. Apparently his confession was not deemed sufficiently specific, for his legs were, at a subsequent examination, "very evil wounded with the boots," with the unlooked-for result that, to the annoyance of his inquisitors, he declared all he had formerly confessed was false. Then my Lord Dunbar released him, "and caused cure his legs"; and when, revived by this considerate treatment, Sprot, on 11th August, was finally

haled before the Council, he adhered to his first confession and alleged that he had stolen Restalrig's letter, which was among his own papers in his "kist" when he was apprehended. Scant opportunity was afforded him for further vacillation, for next day he was tried, convicted and hanged. No evidence was adduced against him except his own statement; and it is significant, in view of the subsequent proceedings, to note that the Lord Advocate, Sir Thomas Hamilton, familiarly known as "Tam o' the Cowgate," produced no letters of Logan's at all, the indictment merely libelling Restalrig's letter as cited from memory by Sprot. Of Gowrie's letter we hear no more. Spottiswood, a King's man and a believer in the conspiracy, who sat upon the trial and witnessed the execution, observes of Sprot's confession in his *History*: "It seemed a very fiction, and to be a mere conceit of the man's own brain, *for neither did he show the letter,* nor could any wise man think that Gowrie, who went about the treason so secretly, would have communicated the matter with such a man as this Restalrig was known to be"; and Calderwood records: "So manie as did not beleeve before were never a wheate the more perswaded."

These remarkable proceedings were but a curtain raiser to the principal piece. Ten months later, in June 1609, Restalrig's old bones, which had lain for three years in their resting grave, were dug up and placed at the Bar to answer a Summons of Treason against their late proprietor. Though Sprot had confessed to having but one Logan letter in his possession, the Lord Advocate was now able to produce no less than five—one addressed to Gowrie, one to the illiterate messenger, and three to an unnamed conspirator called "Right Honourable Sir," all of which were alleged to be in Restalrig's handwriting No mention was made of how, where, or when these documents were recovered by the Crown, but the research of Mr Lang has established the shameful fact that the prosecution well knew them to be forgeries on the secret suppressed confession of the forger, and that they were prepared by him for the purpose of blackmailing Logan's heirs. The letters having been compared by the Lords of the Articles with other writings of Logan, and divers

respectable persons "well qualified to judge" having sworn belief in their authenticity, Restalrig was found guilty of treason, and by a sentence which historians have characterised as equally odious and illegal, his estates were forfeited and his posterity declared infamous. It appears from a letter of the Lord Advocate to his Royal master that his Lordship had some trouble with the judges, who "had preconceived hard opinions of Restalrig's process," but that Dunbar, by the "care and fervency" with which he "did travel so earnestly with the noblemen," managed to secure a verdict for the Crown, and incidentally saved the money which he owed to Logan's children. Such were the scandalous means whereby James sought to re-establish his credit, and to warrant his veracity and good faith in the matter of the *Discourse*.

For over three centuries the Logan letters gave occasion for controversy second in interest only to that aroused by the Casket Letters of Queen Mary. Some historians, including Scott, Tytler, and Hill Burton, considered them undoubtedly authentic; others, as Panton, Bisset, Mark Napier, and Mr Barbé, pronounced them forgeries. On internal evidence the letters afforded ample scope for criticism. The dates were impossible; the attempt to explain why Logan had possession of his own letters instead of the answers he received to them was highly suspicious and the references to meetings of the conspirators in July 1600, which it is proved the Ruthvens were physically incapable of attending, threw additional doubt on their genuineness. The Right Honourable and anonymous correspondent, to whom most of the letters were addressed, was certainly an ancestor of Mrs Gamp's immortal ally, for the Crown made no attempt whatever to give to that nebulous nobleman a local habitation and a name; and the unlikelihood of Logan writing a letter of instructions to a messenger who could not read, is sufficiently apparent. The plot, as dimly outlined in the letters, was, that Gowrie should bring James in a fishing boat to Fast Castle, Logan receiving in lieu of board the Earl's estate of Dirleton. What was to be done with the King, who surely could not trespass upon Logan's hospitality for life, and what benefit beyond air and exercise would accrue to the Ruthvens

from such a "maner of passing time in ane bote on the sey in this fair somer tyde," as Restalrig pleasantly put it, were matters upon which the letters maintained a discreet silence. Dr. Robertson thought James was to be handed over to Elizabeth; but after her experience with His Majesty's mother, Elizabeth probably had enough of Royal captives. In the irony of fate it was reserved for Mr Lang, James's latest and ablest advocate, to settle the question, and that against his client's interest. Pitcairn discovered the original autograph letters in the Register House, and printed them in 1832. Seventy years later Mr Lang had these protographed and compared with undoubted letters of both Logan and Sprot, preserved respectively at Hatfield and at Haddington. The result of this new *comparatio literarum* was to satisfy the eminent experts consulted that *all* the plot-letters were forged by Sprot, in which judgment Mr Lang concurred. "It follows," he writes, "that the whole affair of Sprot and of the alleged Logan letters adds nothing certain to the reasons for believing that there was a Gowrie conspiracy." Does it not further follow that, in the circumstances narrated, the use by the Crown of letters which they well knew to be forged adds something to the reasons for believing that the King's account was no less false and fabricated?

It is much more likely that James conspired against the Ruthvens than they against him, but the main difficulty of the former hypothesis is that James required to run some personal risk, which he was the last man in his kingdom voluntarily to do. Even had he been prepared to assist personally at the Master's murder, Gowrie, upon the outcry, might have stood in the street and raised the burghers, instead of going up to be killed. If James desired the brothers' death he could have had them removed without endangering his own skin: "I had causes enough; I need not have hazarded myself so," he frankly informed Bruce, and for once His Majesty told the truth. Mr Lang, on the other hand, argues that the original design was to lure James to Perth practically unattended, which broke down on his arrival with an armed train. The plot, once arranged, could not be abandoned, because the plotters had no prisoner with a

pot of gold to produce; there was no place for repentance. But surely the Master had only to announce the prisoner's regrettable escape, for which there was ample time, and so might James have gone home again, none the worse but for a cold dinner. If the brothers conspired, they did so alone; they had no accomplices: even their own retainers were unprepared, and they entered into no such coalition with other nobles as the established practice in such matters prescribed. The events as recorded exclude, in my view, belief in a pre-concerted plot either by James or Gowrie.

To the theory of an accidental brawl, however, there is, I admit, one objection, namely, that James told his fairy tale of the pot of gold to Lennox *on the way to Perth*. Yet Lennox, as the Master of Gray reported to Cecil, afterwards declared that on his oath "he could not say whether the practice proceeded from Gowrie or the King"; and James may have had his own reasons for giving a false impression of his purpose in visiting Gowrie House that day, or, more probably, he invented a cock-and-bull story to account for events, the real cause of which he dared not confess, and persuaded Lennox to antedate his explanation.

On the whole, then, I prefer the conclusion of Mr Bisset as least repugnant to the proved facts. It is no new suggestion, for within a month of the tragedy Sir William Bowes recorded as his reading of the Ruthven riddle, "This matter *seeming to have an accidentall beginning*, to gyve it an honorable cloake is pursued wyth odious treasons, conjurations, etc., imputed to the dead Earle." The real mystery is the origin of the struggle between James and the Master; and that, as Mr Bisset has shown, for those who know the true character of the King, is not beyond all conjecture.

Yet, after all, he who seeks to base a reasonable theory on the unsure foundation of the presumed facts is but building upon sand. We cannot tell what *are* facts in this strange case, abounding as it does in suppressions, falsehoods, and inconsistencies. We only know that the two lads were slain by the King's servants while he was in their house, and that His Majesty could give no credible

account of how it happened. For the rest we have no certainty, and, like the old Scottish lady mentioned by Mr Lang, we must take comfort in the belief that at the Day of Judgment we shall know the whole truth about the Gowrie conspiracy at last. We may perhaps be permitted to anticipate that it will be a bad day for King James.

" Perhaps not a pleasant spectacle," said Glenalmond. " And yet, do you know, I think somehow a great one."

Weir of Hermiston.

No one reading for the first time the unfinished romance of *Weir of Hermiston* is likely to forget the disappointment felt on turning the penultimate page of that splendid and imperishable fragment. " It seemed unprovoked: a wilful convulsion of brute nature. . . ." With these words the tale abruptly ends, and within a few hours of their writing the teller's own story as abruptly closed. When that happened at Vailima on 3rd December 1894 which loosed the silver cord of Robert Louis Stevenson's life, the world, it is now admitted, lost a masterpiece. " Who would project a serial novel, after Thackeray and Dickens had each fallen in midcourse? " he once had wondered; but Stevenson's broken column counts for more in the sum of his achievement than *Denis Duval* and *Edwin Drood* do in theirs. Ever since the days of the Raeburn Exhibition in Edinburgh in 1876, when the famous " half-length " took captive his imagination and inspired that delectable essay (declined in turn by the *Cornhill,* the *Pall Mall,* and *Blackwood*) which now enriches *Virginibus Puerisque,* Stevenson was, as he says, Braxfield's humble servant. The notion of putting his hero into a book had long been simmering in his mind, but not till two years before his death was he inspired, in his own phrase, to take the lid off and look in. The story, as Mr Graham Balfour tells us, was begun in October 1892, resumed in the summer of 1893, and taken up for the last time in September 1894. The *Letters* make reference to its auspicious start and halting progress; the triumphal sweep of the final phase speaks for itself. The new work was to be named *The Justice-Clerk,* but Stevenson was afterwards advised to change the title, as had been done in the matter of *Treasure Island,* origin-

ally *The Sea Cook*—in neither case, to my mind, an improvement. Two Weirs of Edinburgh, both frightful but familiar figures of the little Louis' nursery days, claim him of Hermiston as their namechild: the Warlock Major of the West Bow, and that less famous miscreant, the accomplice of the wicked Lady Warriston.

Braxfield, curiously enough, never found his Boswell. It is too late now for a complete biography; the material is unavailable. Extrinsic facts of his career are known, his character has become a legend, but of the man himself in his habit as he lived there is no adequate record. None of those literary giants who were the glory of Edinburgh in the latter half of the eighteenth century, to whom his face and figure must have been as familiar as their own, was moved to essay the task. They met him at kirk and market, heard his great voice thunder from the Bench, sat with him through those extra-judicial sederunts at his board in George Square, till the claret ebbed and the raw dawn crept up across the Hope Park, yet a handful of his sayings—and those, be sure, neither the best nor the most authentic—is all of him that has survived. No Villon Society, as Mr Francis Watt laments, will ever print them privately at Benares, to delight the strong and yet spare the queasy stomach. You may read in the law reports his forceful and sagacious pleadings as the biggest and busiest man at the Scots Bar, or, greatly daring, may embark upon an examination of the part he played in those sedition trials which not even the charm of Henry Cockburn could make other than dreary reading. Only at the magic touch of Stevenson, in the Raeburn essay and in the half-told tale, do the dry bones stir again, and take to themselves for the hour some semblance of the old vitality. Lockhart and Cockburn, transmitting the tradition, and Ramsay of Ochertyre, who knew him in the flesh, give us certain vivid glimpses of that mighty presence. For the rest, Mr Watt's literary portrait in his *Terrors of the Law* is, I think, as good a likeness as we have of the man; Sheriff Lyell's critical study of the judge, forming an address delivered to the Glasgow Juridical Society in 1903, is not generally accessible.

It was, therefore, with a modest sense of virtue rewarded

that one lucky day, among Dr David Laing's MSS. in the Edinburgh University Library, I lighted upon a document of many folio pages, written in faded ink, and bearing the alluring title—" Memoir of Robert M'Queen of Braxfield, Lord Justice-Clerk," which, so far as I am aware, is virgin to the printer. It was written apparently in 1838, and of the author, apart from what he tells us himself, all I can learn is that he was one Alexander Young of Harburn, an Edinburgh Writer to the Signet, who was admitted a member of the Society on 7th March 1786. Scott mentions him in the *Journal,* March 1826:—" Sandie Young came in at breakfast-time " ; and Lockhart tells us that he was a steady Whig of the old school, and a highly esteemed friend of Sir Walter. The son of the Rev. William Young, minister of Hutton, he was born in 1759, served his apprenticeship to an uncle, Alexander Orr of Waterside, W.S., and died on 3rd December 1842 at the age of eighty-three. He was thus a man of forty when Braxfield died in 1799, yet he delayed writing his reminiscences till his eightieth year: " but at fourscore it is too late a week." The publication in 1837 of Lockhart's *Life of Scott,* containing the celebrated checkmate anecdote of Braxfield, and the movement in that year for the erection in Edinburgh of a public memorial to the political " martyrs " of 1793-94, seem to have roused the octogenarian to vindicate his Lordship's memory from undeserved aspersion. Unhappily for posterity the venerable writer, anticipating the methods of certain modern monographers, gives us but a pint of Braxfield to a gallon of Young. Still, though burdened by irrelevant digressions, the memoir does add something to our knowledge of its ostensible subject; and I propose, therefore, briefly to renew for lovers of *Weir of Hermiston* our acquaintance with his great exemplar, availing myself of whatsoever of value our author has been pleased to preserve.

Robert M'Queen, the future Lord Justice-Clerk of Scotland was, as the phrase is, a self-made man. Born at Braxfield in Lanarkshire on 4th May 1722, his grandfather, Ramsay tells us, had been gardener at Crawford to the Earl of Selkirk, and his father was bred a writer to qualify him as his Lordship's baron-bailie. The Lanark

writer prospered; he became in time Sheriff-Substitute of his native shire, married a daughter of Hamilton of Gilkerscleugh, and purchased the lands of Braxfield. Robert, his eldest son, received his education at the local grammar school from one Thomson, a relative of the author of *The Seasons*, and being predestined for the paternal office, he was apprenticed to Thomas Goldie, an Edinburgh W.S., and attended the law classes at the University. Dr John Erskine, who was at college with him, says they would all have fought for "Robbie" M'Queen; his honesty and good nature made him a general favourite. Dundas of Arniston, the future Lord President, second of that name, whose wife's estate of Bonnington was within a mile of Braxfield, knew and liked the lad, and perceiving in him a fine genius for the law, thought it a pity such talents should be buried in a country town. He accordingly advised his father to send him to the Bar, and in due course M'Queen, having completed his apprenticeship and devoted himself to the study of civil and feudal law, was admitted advocate on 14th February 1744. He was but twenty-two when he passed his trials. Next year came the landing of Prince Charles and the last Jacobite rising, which, if it failed in much, at least laid the foundations of the young lawyer's fortune. According to his obituary notice in the *Scots Magazine*, the many intricate and important feudal questions that arose out of the forfeitures of the '45, in all of which he was counsel for the Crown, first brought him into notice, and he rapidly acquired the reputation as a sound lawyer, an acute reasoner and a powerful pleader that afterwards raised him to the height of his profession. His intimacy with Dundas continued through life, and when his patron became Lord Advocate in 1754 he appointed M'Queen one of his deputes; but it was, as appears, in the civil rather than in the criminal Courts that M'Queen peculiarly shone. Cockburn, who certainly holds no brief for him, admits that even in the sphere of commercial law, which was only rising when he was sinking, he was inferior to no Scots lawyer of his time except Ilay Campbell, the Lord President; while within the range of the feudal and the civil branches, and in every matter depending on natural ability and practical

sense, he was very great. Ramsay, who was at the Bar with him, says that he was esteemed the best feudist and civilian since the days of the first President Dundas. His honest frankness, which scorned all artifice and duplicity, united with his other qualities, recommended him strongly to those practitioners who preferred substance to show. While they admired professionally his shrewdness and application, his social gifts delighted them beyond measure for he could be serious or frolicsome as occasion required, talking to everyone in his own way. Consultations with counsel were in those days habitually held in taverns, and when M'Queen's services were invoked at Johnnie Dowie's in Libberton's Wynd, the law and the liquor would be equally sound. With the judges he was as popular as with his fellow-advocates, his agents, and his clients. Intellectual strength, a native roughness of diction and demeanour, the masterful manner of the man, were his dominant notes, and Ramsay refers to the "queerishness" of his face, and his overstrained tones and gestures in pleading. When Pitfour became a judge in 1764 M'Queen succeeded him as the chamber counsel of the day, though, as might be expected from one of his impetuous temper, his opinions are said sometimes to have savoured of rashness. It was at this stage of M'Queen's professional career that Alexander Young became acquainted with him. He was much employed by Young's uncle, and the budding Writer to the Signet first met M'Queen in connection with an action of divorce raised by Patrick Heron of Heron against his wife, a daughter of Lord Kames, in which that powerful advocate won the case for the pursuer. Ultimately his practice became so great that he was often known to plead from fifteen to twenty causes in one day.

In 1776, on the death of George Broun, Lord Coalstoun, M'Queen was elevated to the Bench, and took his seat on 13th December, assuming as his judicial title the name of his Lanarkshire estate, Braxfield, which was destined to become equally celebrated in fact and fiction. Cockburn remarks that Braxfield probably never saw a good Scots change except his own promotion. That, at any rate, was against his interest and inclination, for, as the leading counsel at the Bar, he was, says Ramsay, in the receipt of

prodigious fees. He yielded, however, to the urgent desire of his old friend Lord President Dundas, certainly to the detriment of his fortune and, possibly, of his fame. On 1st March 1780 he was constituted a Lord of Justiciary on the resignation of Alexander Boswell, Lord Auchinleck, father to the inimitable "Bozzy," and on 15th January 1788 he was appointed Lord Justice-Clerk in room of Thomas Miller of Barskimming, promoted Lord President of the Court of Session. This office he held till his death.

Cockburn admits him a dexterous and practical trier of civil causes, and Ramsay says that in "perplexed" cases, and in nice questions of feudal law, he was regarded as an oracle. Acute and expeditious in judgment, he was devoid of obstinacy, and if convinced that he had been led to misapprehend any point, he was ever ready to amend his opinion. Conscious of his superiority, he had little patience with his less gifted colleagues, an infirmity of temper to which in later times it would not be difficult to find a parallel. One of his brethren having advanced some strange and novel doctrine relative to the case in hand, the Justice-Clerk inquired where he had got his law. "From Stair," replied the judge. "Na, na," quoth Braxfield, "that canna be, for there's nae noansense to be fund in Stair!" When the Court were advising another case, one of the judges concluded a very questionable judgment with the formal words, "That is my opinion." "*Your* opeenion!" growled his Lordship in the chair, in one of those formidable asides to which his weaker brethren were discreetly deaf. But of all the flowers that once bloomed so richly in the exuberant garden of his wit, the best we have is the anecdote of Charles Hay, the jovial Lord Newton, whose ruddy jowl has been immortalised by Raeburn. In an age of mighty topers, Hay, as Cockburn remarks, was worthy to have quaffed with Scandinavian heroes. He made nothing of drinking all night at his club and going straight from the table to the Court. On one such morning he appeared at Lord Braxfield's bar palpably the worse for the experience, counsel on the other side being in a double sense in the same case. My Lord, detecting their condition at a glance, with his wonted disregard of ceremony, observed: "Gentlemen,

ye may just pack up your papers and gang hame; the tane o' ye's riftin' punch and the ither's belchin' claret—there'll be nae gude got oot o' ye the day." It should be borne in mind that the Court then sat punctually at nine o'clock, and that Braxfield himself, however long the previous night's sederunt, never failed, summer or winter, to take his seat at that hour. Another characteristic anecdote relates to the promotion of his friend William Baillie to the Bench as Lord Polkemmet. This he procured because, as counsel for Baillie, he had advised him not to settle a succession case which was ultimately lost. Baillie was notoriously no orator, and when his appointment was strongly objected to on that ground, Braxfield confounded the objector by saying, "Noansense, man; I've bargained that he's never to speak"!

While at the Bar M'Queen owned a flat, which he shared with his friend James Veitch, afterwards Lord Elliock, in an historic mansion in Covenant Close, situated in the High Street, midway between the Parliament Close and the Tron, and conveniently near the Courts. It may have been that very "damned five-story stair" at the head of which Nanty Ewart studied divinity. By 1773, as we find from the first Edinburgh Directory, M'Queen had removed to George Square, then a new and fashionable quarter, where for the remainder of his days he lived at No. 13. There he was in good company, his distinguished neighbours being General Sir Ralph Abercromby (No. 27), the Hon. Henry Erskine (No. 26), and the father of Sir Walter Scott (No. 25). The change was diagnostic of the times. Auld Reekie, so long confined to her incomparable ridge, was beginning to break her historic bounds. The "spacious brig" of which Fergusson had sung, that momentous stride in her physical and civic progress, was soon to carry her citizens to the northern slopes, and institute a new era of men and manners. "When the great exodus was made across the valley," says Stevenson, "and the New Town began to spread abroad its draughty parallelograms, and rear its long frontage on the opposing hill, there was such a flitting, such a change of domicile and dweller, as was never excelled in the history of cities: the cobbler succeeded the earl; the beggar esconced himself

by the judge's chimney"—in short, Edinburgh society was turned upside down.

But although Braxfield lived to witness this social transformation scene, the move to George Square was his sole concession to the new ways. He was too sturdy to change; his dress, his habits, his broad Scots speech and broader humour, daily becoming more incongruous as folk grew finer and the times more genteel, he retained to the end. Even in that remote suburb he clung to the old custom of donning wig and gown at home before his daily walk to the Parliament House, *via* Bristo Street, Society, Scott's Close, and the Back Stairs. One morning his barber, John Kay, the famous caricaturist, was late in bringing the judicial wig, so his impatient Lordship started for Court, robed, with his nightcap on his head. He met the tardy barber by the way, and snatching off his nightcap with one hand, with the other he seized and adjusted the wig, sending Kay back with the homely headgear and a flea in his ear. For the Anglicised accent affected by the junior Bar my Lord had a grand contempt, observing of Jeffrey that he had "clean tint his Scotch and fund nae English." So, in a prosecution for theft which failed because the articles libelled as shirts turned out to be shifts, Braxfield remarked that the good Scots word "sarks" would have covered both. With the modish philosophers and stilted *literati* of Modern Athens the jolly old pagan had nothing in common. When in high spirits and congenial company, he would exclaim "What a glorious thing it is to speak noansense!"—a free translation of Horace's *dulce est desipere in loco*, and as a *raconteur* he seems to have taken delight in outraging the proprieties by the unconventional colour of his tales. Ramsay laments his Lordship's habit of swearing without provocation, "like an ensign of the last age in his teens"—a curious simile. Yet withal, my Lord rather plumed himself upon his godliness, and was, in his own judgment, a sincere Christian. Ramsay thought there was some moral resemblance between him and Robert Burns; but Braxfield had more spiritual affinity with that other hardy occupant of the chair of Justice-Clerk, Lord Grange.

All this raises an interesting point, noted by Sir Sidney

Colvin, of which there is no explanation, regarding the date chosen by Stevenson for his romance. In his later years Lord Braxfield himself was almost an anachronism; in 1814 his avatar Lord Hermiston is well-nigh incredible. Lockhart, writing in 1817, says that since Braxfield's death the whole exterior of judicial deportment had quite altered. Of his contemporaries on the Bench Eskgrove alone presented equally marked peculiarities of speech and manner, but *his* eccentricities, as we know from Cockburn, were not of genius. Scott laughed long at Eskgrove, but he never laughed at Braxfield, to whom, on his admission to the Faculty of Advocates in 1792, he had, by his father's advice, dedicated his Latin thesis, *De Cadaveribus Damnatorum,* in highly flattering terms.

What has been called the *locus classicus* regarding Braxfield is contained in Lord Cockburn's *Memorials.* "But the giant of the Bench was Braxfield. His very name makes people start yet. Strong built and dark, with rough eyebrows, powerful eyes, threatening lips, and a low growling voice, he was like a formidible blacksmith. His accent and his dialect were exaggerated Scotch; his language, like his thoughts, short, strong, and conclusive. Illiterate and without any taste for refined enjoyment, strength of understanding, which gave him power without cultivation, only encouraged him to a more contemptuous disdain of all natures less coarse than his own." With regard to his Lordship's conduct as a criminal judge, Cockburn describes it as a disgrace to the age, and says he was never so much in his element as when taunting some wretched culprit, and sending him to Botany Bay or the gallows with an insulting jest. How the fact stands we shall see when we come to consider the trials at which Braxfield presided. As to the quality of his Lordship's humorous and racy sallies, Cockburn remarks: "Thousands of his sayings have been preserved, and the staple of them in decency; which he succeeded in making many people enjoy, or at least endure, by hearty laughter, energy of manner, and rough humour." If that be so, it is curious that no gem from this Rabelaisian mine has come down to us—perhaps they perished during the Victorian era; but at least we have evidence that in other respects

this estimate of the man does scant justice to his character. Henry Cockburn belonged to another age. He was a lad at college when Braxfield died, and it does not appear that he ever knew the judge, though he had seen him as his father's guest.

Let us now hear Alexander Young, a witness for the defence. "During the whole of Lord Braxfield's progress from the time he left the bar until his death," he writes, "I was in habits of strict intimacy and friendship with him, in so much that I believe hardly one week passed in all that time in which I had not some intercourse with him either in town or country, both during session and vacation. I humbly think, therefore, that I must have known whether or not he merited that odium and reproach which of late years has been cast on his conduct as a gentleman and his proceedings as a judge. He was one of the most kind, benevolent, cheerful and agreeable men I ever knew, most hospitable and attentive in an eminent degree to all his neighbours, and, as a judge, I never till lately heard a public opinion uttered concerning him except in praise. He was a great friend to dispatch in business, and there never was insinuated any complaint of undue favour or partiality displayed by him in the whole course of his judicial career, which is more than I can say of some very eminent judges who sat on the bench at the same time with him. He was a very good scholar, and particularly conversant with the Latin classics. In general literature it appeared to me he was somewhat deficient, and I remember well that Shaftesbury's *Characteristics,* the works of Sir William Temple, and some of Swift's prose works, were the only English authors which he said to me he had read out and out, and dipped into oftener than once. The defects in his Lordship's character I either had not the penetration to discover, or they were such as I at the time viewed with great toleration and charity. In regard to his conviviality, and admiration and praise of the fair sex, having been often in Ireland, I thought his Lordship as to these very much resembled some of the jovial spirits with whom I had associated in that country."

Young devotes much space to a detailed refutation of

the famous calumny of Braxfield by Lockhart in the first edition of his *Life of Scott,* namely, that when the Justice-Clerk had sentenced to death an old friend convicted before him of forgery, with whom he used to play chess, he observed, "An' noo, Donal', my man, I think I've checkmated ye for ance!" Scott told the story to the Prince Regent when dining at Carlton House, Lord Yarmouth, afterwards Marquess of Hertford and Thackery's Lord Steyne, being also present, and its delicate humour was much appreciated by those illustrious persons. On the publication of the anecdote Lord President Hope, who knew Braxfield intimately, wrote to *Blackwood* indignantly denying its truth, and the passage was withdrawn in subsequent editions. It appears that Young was present at the circuit court in Ayr when the incident occurred, and that Lord Kames was the real author of this grim judicial joke.

Braxfield, Young tells us, never played chess, but was passionately fond of whist. In those days the judges "rode the circuit" in their own carriages, and the Justice-Clerk, who had a small table in his travelling-coach containing two or three packs of cards, in a long stage usually played several rubbers with his son Dundas and the Advocate-Depute, "one or other of them playing the dead man." On one occasion Young, who was acting as Clerk of Justiciary, was pressed into service as a fourth hand, but he played so badly that Braxfield lost all patience with him, and he was transferred to the carriage of the other judge, Lord Hailes. It was a backward spring, and during their journey the party experienced blinding showers of snow. At Jedburgh that day at dinner Braxfield remarked that he pitied the poor lambs, "then droping," to which Hailes replied that his pity was akin to that of the English clergyman who expressed it as follows:—"Poor, dear little souls, you don't know how well you eat cold with salad!" In 1780 "Bozzy" published in pamphlet form his *Letter to Lord Braxfield,* in which he deplored the modern method of riding the circuit, and pleaded for a revival of the old-time pageantry of sumpter horses and baggage waggons. "The Lords of Justiciary," he protests, "should not contract their travelling equipage

into that of a couple of private gentlemen on a jaunt of pleasure, but should remember that it is the train of a Court composed of different members."

The judges received an allowance from Government for entertaining those officially attending the circuits, and Young states that their Lordships, particularly Lord Kames, were accused of doing the honours in the most shabby style. Braxfield, however, was an exception; he was very generous in regard to the wine, and though he held his own with the claret, Young never saw him even once on these occasions overtaken. Of wine, says Ramsay, no man stood less in need; for so exuberant were his spirits that even in his sober hours he seemed to be in a state of inebriety. Yet Bacchus had never an easy victory over Braxfield, as Cockburn allows. At a circuit dinner at Dumfries, when Kames was the presiding judge and the claret was conspicuous by its absence, his Lordship, hearing much laughter at Henry Erskine's end of the table, called out, "What is the joke, Mr Hary?" "It arose, my Lord," said Erskine, "from a foolish observation of mine, that your Lordship was treating us as Lord Rodney did Admiral D'Estaing, by confining us to *port*." Once, Young admits, his hero had somewhat the worst of the encounter, when they were both guests of John Bushby at Tinwald Downs, during the sittings at Dumfries, on the last Saturday night of the circuit—a very jovial meeting, at which much good wine was consumed and great good humour prevailed among the company. At dinner next day at the King's Arms, Lord Hailes remarked he heard there had been "a shameful debauch at Bushby's," and that Young was too ill to leave his bed for church that morning. On Young pleading guilty, Braxfield thus admonished him: "At all rates ye should hae cam' to the kirk, for though mony a scoundrel cams there regular, few honest men stays away." It is to be noted that his Lordship's own potations had nowise interfered with the due performance of his devotions.

Another of Young's circuit stories is worth preserving though, in common with too many of his reminiscences, it has nothing to do with Braxfield. Robert Blair, the future Lord President, was Advocate-Depute on the South

Circuit, the other counsel being Lord Maitland, later Earl of Lauderdale, then making his *debut,* and Robert Corbet, a solemn speaker, whose speech Lord Kames had once interrupted with the disconcerting remark, "Oh, Corbet, man, ye're a sour sowl! " During the trials at Dumfries Corbet invited his brethren to breakfast at the Blue Bell Inn. "We found," says Young, "an excellent breakfast had been prepared, but our host had not made his appearance in the parlour. When we entered his bedroom we found him asleep, with half a dozen eggs lying beside him on the coverlet. Lord Maitland said, 'Corbet, I beg you will lie still and lay some more eggs, for there are not half enough here to serve all your guests'! "

But to return to Braxfield. His Lordship was twice married, according to what rites is not recorded, but doubtless *in facie ecclesiæ,* for the Justice-Clerk disliked "Scotch" marriages, holding that "there was nae pairt o' the law o' Scotland that needed mair to be made oot o' hale claith than the law o' marriage." His first wife was a daughter of Major James Agnew of the 7th Dragoon Guards, and niece of Sir Andrew Agnew of Lochnaw, the last of the hereditary Sheriffs of Galloway, who had commanded the Castle of Blair when it was besieged by the "rebels" in 1745. By this lady he had two sons and two daughters. The elder son, Robert Dundas, named after his father's old friend the Lord President, was, Young tells us, bred to the Scots Bar, but never practised. He married in 1796 a daughter of the Earl of Eglinton, and died without issue in 1816. John, the second son, entered the Army and became a captain in the 28th regiment of foot. He married an Irish lady named Macann, with whose family Young was well acquainted, and their son succeeded to the estates of Braxfield, Broughton and Hardington, which were entailed by his grandfather. The Justice-Clerk, as we know from Ramsay, spent every hour he could command at his country seat, "which he loved the more that he had gathered birds' nests there in his boyish years," and made great additions to and improvements upon it. He took much delight in farming on a large scale, without embarrassing his affairs like many of his contemporaries; and his shrewdness enabled him to

purchase several valuable properties lying contiguous to his own estate, at a time when land was comparatively cheap. Of his daughters, the elder, Mary, married in 1777 Sir William Honyman, afterwards Lord Armadale, a Lord of Session; the younger, Catherine, in 1786 married Macdonald of Clanranald. Both were handsome women, says Young; Lady Honyman very clever, and Clanranald's lady eminently beautiful. Braxfield's second wife was Elizabeth, daughter of Lord Chief Baron Orde of the Court of Exchequer, by whom he had no children.

There are unfortunately only two or three stories of these ladies in relation to their formidable lord. Cockburn tells how Braxfield apologised to a dowager whom he damned at whist for bad play, by declaring that he had mistaken her for his wife, from which we may conceive his earlier spouse, to whom the anecdote refers, as of a mild disposition and, in respect of cards, but an indifferent partner. His courting of Miss Elizabeth Orde was on this wise. Without any of the preliminaries usual in such circumstances his Lordship one day called upon the lady. "Lizzy," said he, "I'm looking out for a wife, and I thocht ye just the person to suit me. Let me hae yer answer, aff or on, the morn, an' nae mair aboot it!" Undismayed by the abruptness of the proposal Miss Orde duly accepted it. Indeed, as appears from the following anecdote, it is probable that in her Braxfield met, in a double sense, his match. When the buter gave up his place because her Ladyship was always scolding him. "Lord!" exclaimed his master, "ye've little to complain o'; ye may be thankfu' ye're no' merriet upon her!"

An interesting trait, unnoticed by other writers, is preserved by Young. The Justice-Clerk, it seems, was particularly fond of old Scots songs, taking equal delight in words and music. "For providing some entertainment to his Lordship in that line," says Young, "it was the practice both of his son-in-law, Sir William Honyman, and myself, when he dined with us, to invite persons eminent for their skill and execution in Scotch music, from whose performance Lord Braxfield derived great pleasure." Young mentions two of these experts by name —Alexander Cunningham, nephew to Principal Robert-

son and cousin to Lord Brougham, and James Balfour (probably of the Pilrig stock), the one a jeweller, the other an accountant in Edinburgh. In the former it is pleasant to recognise the pursuer in the celebrated *Diamond Beetle* case, that choicest blossom of *The Court of Session Garland*. Cunningham is said to have been a member of the Glencairn family, and to have had a claim to the dormant peerage, on the strength of which he was received in the best society, notwithstanding the dislike of the Modern Athenians to persons in trade. He was a great friend of Burns, and on the poet's death became possessor of his punch bowl. The other vocalist was that "Singing Jamie Balfour," one of the most notable jolly fellows of the age, of whose gifts and humours Chambers in his *Traditions* has preserved the genial memory. The jeweller favoured the pathetic: "The Flowers o' the Forest" and "Lochaber no More" were his principal gems; but Braxfield, while much affected by the plaintive beauty of those strains, reserved his highest enthusiasm for the numbers of the accountant, whose line was the quaintly-humorous. "Muirland Willie," "Fye, Let us a' to the Wedding," and "My Jo Janet," so greatly pleased his Lordship that he never was satisfied till he had heard them sung twice or thrice over. The last time Balfour sang "My Jo Janet" to Braxfield was at a dinner at Honyman's house in Park Place, when Henry Erskine and Young were of the party. On the conclusion of the song Sir William's butler, who had previously put down port instead of claret, again made the same mistake, whereupon Erskine prolonged the stave as follows: —

"For God's sake, my dear Honyman,
When I come here to dine, man,
It's for the love ye bear to me
Gie me some claret wine, man."

On which Lady Honyman extempore sang: —

"Tak' the port, the claret's dear,
Erskine, Erskine;
'Twill mak' ye drunk ye needna fear,
My Jo Erskine."

It appears from this and other anecdotes that claret then occupied the place in these degenerate days usurped by champagne, and that port (shade of Dr Middleton!) was held in but light esteem. Another claret story of Braxfield is told by Dean Ramsay. The Justice-Clerk, dining one day with Lord Douglas, noticed that port was the only wine provided, and, with his usual frankness, asked if there was "nae claret i' the castle." His noble host replied that there was, but that his butler had told him it was sour. "Let's pree't," said Braxfield briefly, and a bottle was produced which proved to be excellent. "Noo, minister," observed his Lordship, addressing Dr M'Cubbin of Bothwell, a celebrated wit, "as a *fama clamosa* has gone forth against this wine, I propose that ye absolve it." "Ay, my Lord," retorted the reverend doctor, "you are a first-rate authority for a case of civil or criminal law, but you don't understand the practice of our church courts. We never absolve *till after three several appearances.*" The wit and condition of absolution, says the dean, were equally relished by the judge.

Before approaching the debatable ground of the sedition trials (upon which Young, fortunately, has his word), mention may be made of two *causes célèbres* tried by the Justice-Clerk as head of the Criminal Court, namely, those of Deacon Brodie in 1788 and of Sir Archibald Kinloch in 1795. Apart from the political trials, these are the most important at which Braxfield presided, and we search the reports of them in vain for the "coarse and dexterous ruffian" of Cockburn's denunciatory pages. Braxfield conducted both trials with dignity, patience, and discretion and his charges are models of lucidity and terseness.

During the last decade of the century, the Ship of State, to employ a metaphor appropriately weather-beaten, was labouring in troubled waters. On her lee, the shores of France resounded with the wild breakers of revolution and of war; in many ways she was but ill-found, and among her company were men banded together in open mutiny against their officers. Braxfield, facing the storm like some staunch old sea dog, determined that at least in the quarter of the vessel for which he was responsible, the mutineers should get short shrift. Space will not permit

of more than a hasty glance at the political situation and the numerous and important trials to which it gave rise. Cockburn has devoted to their examination two grave volumes, and the proceedings may be studied at large in the serried columns of the *State Trials*. The ten years' agitation for parliamentary reform seemed about to be successful. A committee of the House of Commons appointed to inquire into the subject had reported that great grievances existed, and indeed so rotten was the then Scottish burgh system that Henry Dundas deemed it an easier matter to reform hell. In view, however, of the antipathy aroused in the comfortable classes to all Radical measures by the outbreak of the French Revolution, even the leaders of the Reform movement agreed it would be wiser to postpone their project to a more suitable time. "But then, as now," observes Sheriff Lyell, "there existed in this country a number of hare-brained enthusiasts who, having no sense of proportion and a very small proportion of sense, were incapable of appreciating the force of circumstances and the gravity of the crisis of the hour." An association styling itself "The Friends of the People" having conceived, brought forth a numerous brood of young societies, which spread the principles of their parent throughout the length and breadth of the land. During the closing months of the year 1793 delegates from these various bodies met in Edinburgh, under the imposing title of "The British Convention of the Delegates of the People, associated to obtain Universal Suffrage and Annual Parliaments." For reasonable, law-abiding folk the whole proceedings smacked something too much of the ways of France, with which country we were then at war, and where the results flowing from democratic licence were sufficiently bloody and appalling. Secret committees to call by sealed letters a general meeting at a secret place, the tocsin to be sounded in certain events, notably on the invasion of Great Britain by foreign foe, the abolition of the Christian era, and the substitution for the current date of "the first year of the British Convention, one and indivisible," all these, as Mr Sapsea would have said, had a dark look, an un-English complexion which terrified responsible and peaceful citizens. Forms and phrases bor-

rowed from the French National Convention were at that time enough to damn a tea-party. The Crown authorities took prompt action, the British Convention collapsed, and what was either a highly dangerous conspiracy against the King and Government, or a design not much more formiable than the subterranean plottings of Simon Tappertit, was nipped in the bud.

What followed is matter of history. The years 1793-94 witnessed that long series of sedition trials, the "indelible iniquity" of which so stirred the wrath of Cockburn. For well nigh a century no trial for sedition had occurred in Scotland; there was no precedent to guide the Lords of Justiciary in dealing with the cases they were called upon to try, and they had thus to make the law fit the crime—a task less easy than that achieved by Mr Gilbert's Mikadø. "Bring me prisoners, an' I'll find ye law," Braxfield is reported to have told the hesitating prosecutor, Lord Advocate Dundas; "Hoot, man, just gie me Josie Norrie [the Clerk of Justiciary] an' a gude jury, an' I'll dae for the fallow!" To this stout old Tory the Radicals and their aims were alike anathema, and of the reformers—"Grumbletonians," he termed them—his word was: "They wad a' be muckle the better o' bein' haanget." Hang was with him a synonym for any judicial punishment, as appears from an aside to a juryman, passing behind the judge's chair on his way to the box, upon the trial of Muir: "Come awa', Maister Horner, come awa', an' help us tae haang ane o' they daamned scoondrels." The famous dictum reported by Lockhart as addressed to an eloquent culprit—"Ye're a vera clever chiel', man, but ye wad be nane the waur o' a haangin'"—is probably apocryphal. It was in this spirit that the Justice-Clerk confronted the difficulties with which the executive was faced, but it would be a mistake to imagine that the Jeffreys of Scotland, as Cockburn calls him, had it all his own way. "It is altogether unavailing for your Lordship to menace me, for I have long learned to fear not the face of man," retorted Skirving to an angry demonstration from the Bench. "Hae ye ony coonsel, man?" his Lordship inquired of citizen Margarot, when that friend of the people was placed at the bar. "Div ye want to hae ony

appintit?" "No," replied the prisoner, an Englishman; "I only want an interpreter to make me understand what your Lordship says." As was well observed of him by Lord Abercromby, Margarot's behaviour throughout his whole trial was of the most indecent kind. He fell foul of the judges on every possible occasion, and from the instant he entered the dock he flung away the scabbard. Once, indeed, he had my Lord upon the hip, as appears from the following passage, probably unique in the history of cross-examination.

Mr Margarot.—Now, my Lords, come a very delicate matter indeed. I mean to call upon my Lord Justice-Clerk, and I hope that the questions and the answers will be given in the most solemn manner. I have received a piece of information which I shall lay before the Court in the course of my questions. First, my Lord, are you upon oath?

Lord Justice-Clerk.—State your questions, and I will tell you whether I will answer them or not. If they are proper questions, I will answer them.

Did you dine at Mr Rocheid's at Inverleith in the course of last week?

Lord Justice-Clerk.—And what have you to do with that, sir?

Did any conversation take place with regard to my trial?

Lord Justice-Clerk.—Go on, sir.

Did you use these words: What should you think of giving him a hundred lashes, together with Botany Bay; or words to that effect?

Lord Justice-Clerk.—Go on. Put your questions if you have any more.

Did any person—did a lady—say to you that the mob would not allow you to whip him? And, my Lord, did you not say that the mob would be the better for losing a little blood? These are the questions, my Lord, that I wish to put to you at present in the presence of the Court. Deny them, or acknowledge them.

Lord Justice-Clerk.—Do you think I should answer questions of that sort, my Lord Henderland?

His brethren were of the opinion that these questions were irrelevant, and that the Justice-Clerk did not require to answer them; but if Braxfield had expressed such views, as is highly probable, he would have been better advised

not to preside at the trial. The worst thing Braxfield ever said is alleged to have fallen from him during the trial of Gerrald, who, in the course of his defence, maintained that all great men had been reformers, "even our Saviour Himself." This called forth the judicial aside, "Muckle He made o' that; He was haanget," followed by a rebuke to the pannel for attacking Christianity! The incident is not to be found in the published reports of the case.

For his kinsman the Lord Advocate, and for the Solicitor-General, Robert Blair, who conducted the prosecutions; for my Lords Henderland, Eskgrove, Swinton, Dunsinnan, and Abercromby, who occupied the Bench, countenanced the proceedings, and concurred in the sentences of transportation to Botany Bay; and for the juries upon whose verdicts the pannels were convicted, Cockburn has no word of blame; the vials of his wrath are reserved for Braxfield. Yet the responsibility for what undoubtedly is a dark page in the Books of Adjournal should not be laid solely upon his broad shoulders. Even Cockburn admits that the accused were in fact guilty of *something;* and had the trials been presided over by a judge of less impetuous temper, more free from political bias, and had the sentences pronounced been less glaringly excessive, the "Scotch martyrs" would have failed to earn their crown. The trials were discussed in Parliament. During the debate in the Lords on the Earl of Lauderdale's motion respecting the cases of Muir and Palmer, Lord Mansfield, the Justice-General, warmly defended the conduct of the Lords of Justiciary, whose nominal head he was, on the ground that the sentences were warranted by the usage and principles of the law of Scotland. "I have not the pleasure of personal acquaintance with the Lord Justice-Clerk," said he, "but I have long heard the loud voice of fame that speaks of him as a man of pure and spotless integrity, of great talents, and of a transcendent knowledge of the laws of his country." Hume, in his *Commentaries,* rightly observes that the due and steady application of the common law by the judges was the means of repressing the audacious and growing licence of seditious societies in Scotland.

In view of the posthumous abuse with which an enlightened posterity has covered the memory of the Lord Justice-Clerk, it is instructive to learn how his Lordship's conduct in these trials impressed a fair-minded legal contemporary. "Through the medium of my friend, Mr Hugh Bell," writes Young, "I had an opportunity of seeing and hearing a good deal of Margarot, and I was present at his trial in the Court of Justiciary, to which I saw him conducted by a great crowd of the lower class of the citizens of Edinburgh, carrying flags and banners with suitable inscriptions upon them; but as they were passing along the North Bridge, Mr Elder, then Lord Provost of the city, with the assistance of his officers, taking Mr Margarot by the arm, conducted him up the High Street into Court, after conveying, as Mr Margarot was pleased to say, 'Reform, Truth, Justice and Mercy,' with their flags and banners, over the parapet of the Bridge into the Nor' Loch. At this time the Writers to the Signet were not exempted from the duty of jurymen, at least they did not always claim that privilege; but I was so reluctant to act in that capacity in the trial of Margarot that I made every exertion in my power to avoid it. I was present, however, at the trial, which seemed to be more the trial of Lord Braxfield than of Mr Margarot, and I must own that had I been the judge, I could neither have preserved my temper nor have acted with the same meekness and moderation that it appeared to me the judges of the Court of Justiciary did on that occasion. They were all excellent men, and, when I recollect the character and conduct of the Lords Henderland and Swinton, who were my intimate friends, I think I may appeal to all who knew them—and many such are still living—that they were the most unlikely men in the world, including their President, the Justice-Clerk, to have inflicted 'martyrdom' even upon criminals; and yet they are now accused of having been despotic judges, and those who were then tried by them are termed the 'Scotch martyrs.' As I attended all the trials of Messrs. Muir, Palmer, and Gerrald, I must acknowlegde that my feelings with regard to these last were somewhat different, and I earnestly wished that their punishment might be as lenient

as possible; but I never had the smallest doubt that the Scots law of sedition was properly and fairly expounded and applied. It was at least that law which I had learned as a man of business, and seen practised on various occasions, and I solemnly declare that I never considered the judges could be blamed for their conduct at these trials, and never heard an insinuation thrown out against them, nor could find anything in our best legal authorities adverse to my understanding of the law of Scotland on this head. Yet I have lived to hear and read torrents of abuse and calumny poured out against those able men, whose memory I cherish with respect, as if they had abused their judicial powers and sacrificed their victims, now dignified with the name of the 'Scotch martyrs,' to whose honour and praise it is proposed that this country should erect monuments and trophies."

Hugh Bell, Young's friend and client, was a well-known Edinburgh brewer, who sympathised with the reformers. Young narrates how another of his friends once said to Bell, "Hugh, I wish to God, instead of reforming the State, you would think of reforming your own small beer, for my servants say it is so damned bad since you became a reformer that they'll not drink another drop of it." The allusion to monuments and trophies has reference to the movement in 1837 for erection in Edinburgh of a public memorial to the "martyrs," which, after long and strenuous opposition, in 1844 took the form of an obelisk in the Calton burial-ground. Cockburn thought it enough to make Braxfield start from his grave.

"Of all men that ever lived," says Young, in conclusion, "I think the great injustice has of late been done to the memory of Lord Justice-Clerk M'Queen. I knew him intimately from the first moment I came to Edinburgh, and I can truly declare that he was not merely a great lawyer and an excellent judge, but a most humane, kind-hearted and benevolent man, a friend and benefactor to all the lower classes, a most hospitable and excellent landlord, and, in my humble opinion, though he was a Tory and sometimes rallied me on being a Whig, he never allowed political feelings to influence his conduct as a judge. When he acted in that capacity in the trials of the

men who are now termed the 'Scotch martyrs,' I do not remember that there was any difference of opinion betwixt him and the other judges on the Bench. They all joined in the same exposition of the Scots law of sedition, nor did I then hear of one imputation on the characters of any one of them, or of the imputed 'martyrdom' of the poor enthusiasts Muir and Gerrald, or the democratic agitator and blackguard Margarot. Now, indeed, the Justice-Clerk is represented as having been an unprincipled, despotic judge, and placed on the same level with Jeffreys and those who formerly figured in that line, whilst the most atrocious falsehoods are daily circulated regarding his brutal conduct to criminals in the Court where he presided, all which I solemnly declare, so far as I know (and I had the best cause of knowledge as to most of them), *as I shall answer to God,* are false and utterly destitute of truth."

Young submitted his manuscript Memoir to John Mowbray of Hartwood, W.S., an intimate friend of Braxfield. Mowbray's letter returning it on 17th March 1838 is preserved in Edinburgh University Library. He heartily endorses Young's view of the judge's character, and hopes that the Memoir may rescue Braxfield's memory from injurious and unfounded imputations. "I was in the habit of dining often with his Lordship at his house in George Square," he writes, "particularly about the time when Margarot, Gerrald, Skirving and others were tried for sedition, and I admired the cool, persevering courage with which in those perilous times his Lordship discharged his official duty. I attended them all, and on one occasion, I think at Margarot's trial, heard the mob in the gallery venting furious threatenings of personal violence against the Lord Justice-Clerk, which made me very uneasy. The trial lasted till about three or four o'clock of a dark morning, immediately after which he left the Bench, put on his greatcoat and walked away, with no attendant but his servant James, down Libberton's Wynd and up Hume's Close, two very dark and dangerous passages. I kept close behind him, and did not discover myself till we had got out of Hume's Close, when he said, 'Is this you, Mr Mowbray? What brings you here at this

time? This is not the road to your house.' After some evasive answers I told him the truth; that having heard so many threats of personal violence from the mob, I could not be at ease till I had seen him safe to his own door. He thanked me, but said, 'There is no danger, and I am only doing my duty, which I could not have done had I paid any regard to the mass of threatening letters I have received; but they gaed all the same gate.' He permitted me to go to the corner of the Square with him, but insisted on my returning." This vivid view of the fearless old judge, steadfast in the discharge of what he conceived to be his duty, shows how much nearer the truth is Stevenson's reading of the man than Cockburn's harsh presentment.

Of James, his Lordship's servant, Mowbray has a delightful tale, not only new, but one of the best we have relating to Braxfield. James gave his master notice; he must leave his service at the next term. "What's wrang noo, James?" inquired my Lord. "Naething but your Lordship's temper; ye're sae passionate," was the reply. "Hoots, man, what needs ye mind o' that?" said his master, "Ye ken weel that it's nae sooner on than it's aff." "Very true, my Lord," rejoined James, "but then it's nae sooner aff than it's on!"

If time has played sad tricks with my Lord's memory, and what was once thought white in him is now deemed black, so that we cannot tell what manner of man he really was, we may at least look in the famous hanging face, and see him as he seemed to his contemporaries. Twice the subject of Raeburn's brush—in itself no small distinction—his portrait, which Stevenson saw in '76 with so extreme a gusto, hangs in the Parliament Hall, and a reproduction of it accompanies this paper. It was painted, according to Mr Caw's *Scottish Portraits,* about 1790. Another, a three-quarter-length, painted some years later, shows the Justice-Clerk in the full majesty of his Justiciary robes. Where the original is I do not know, but an engraving of it was made by Lizars in 1798, and may be seen in the second volume of *Peter's Letters to his Kinsfolk,* together with Lockhart's impressions, which, like the portrait, are less happy than Stevenson's. It was again

engraved, to better effect, by Beugo for the *Scots Magazine*, May 1801. Kay's unattractive etching is of 1793.

For more than a year before his death Lord Braxfield, as Ramsay relates, was unable to attend the Court. Assailed by a complication of diseases, he confronted the last, as boldly as he had faced all former perils; and after long and severe suffering, he died at his house in George Square on 30th May 1799 in his 78th year, carrying more sound law with him than he left upon the Bench, as one of his brethren handsomely admitted. He was buried at Lanark, his native town.

A " Biographical Sketch " of Lord Braxfield in the *Scots Magazine* above cited records: " His engaging, we may say, fascinating, manners rendered him a most agreeable member of society. The company was always lively and happy of which the Lord Justice-Clerk was a member. . . . The Lord Justice-Clerk was of middle size and robust make; he was what is commonly expressed by the term hard-featured, but had a small quick eye and expressive countenance, impressive of mildness and intelligence. His constitution was good, and he enjoyed a great share of health till a year or two before his death. . . . In his death his country sustained the loss of an intelligent, able and candid judge."

Thus Robert M'Queen and the eighteenth century, which at his birth had but attained majority, having run together their protracted course, passed hence and were no more seen; and the image that remains with us is of a man essentially strong—coarse, if you will, judged by our squeamish standard, yet staunch and indomitable—going on, in Stevenson's fine phrase, up the great, bare staircase of his duty, to the end.

THE HUSBAND OF LADY GRANGE

I have religion enough to spoil my relish and prosecution of this world, and not enough to get me to the next.
—*Diary of Lord Grange.*

THE *enlèvement* of the wife of a Lord of Session and her life-long sequestration on a barren island at the instance of her own husband, when one regards the divinity that nowadays doth hedge our Senators of the College of Justice, would seem a circumstance so remote from probobility as to baffle belief by the most ingenuous member of the junior bar. Such an extra-judicial abduction, however, did actually occur, not in those times of darkness under cover of which so many deeds of similar hue were appropriately wrought, but in the year of grace 1732, when King George the Second, "that strutting little Sultan," with Sir Robert Walpole for Grand Vizier, ruled England between them; when the godly governed Scotland, and the wicked Jacobite and Episcopalian had, as was fondly hoped, finally ceased from troubling. Yet, despite the purity of the political and religious atmosphere, the amazing feat referred to was in fact achieved by an eminent Hanoverian and prop of Presbytery, the *ci-devant* Lord Justice-Clerk of Scotland himself.

The story of that strange business, which is touched upon by modern historians, has often been told: by Chambers in the *Journal* (March 1846, July 1874), and again in *Stories of Old Families* (1878), and by Dr Macleay in his *Historical Memoirs* (1881); while Mr Innes Shand, in a novel, *The Lady Grange* (1897), has clothed agreeably the bare bones of fact. These accounts are concerned chiefly with the lady's own narrative of her misadventures in the Western Isles; my Lord, her husband, a far more interesting figure, remains, but for an official requiem in the *Dictionary of National Biography,* practically unsung. Information regarding his character and career, equally

remarkable, is to be sought among many authorities, from the records of contemporaneous annalists to the privately printed collections of divers learned bodies; and it has seemed to the present writer, gleaning this literary field, that a brief notice of the man might prove of interest.

The actings of those tragic comedians, Lord Grange and his ill-fated spouse, have a murderous prologue, which, in order to a due appreciation of the later drama, must first be mentioned. On Sunday, 31st March 1689, that great lawyer and famous rival of Sir George Mackenzie, Sir George Lockhart of Carnwath, Lord President of the Court of Session, was assassinated by John Chiesly, laird of the lands of Gorgie and Dalry. The murderer stated that he committed the crime "because he thought the deceased had given an unjust sentence against him"—he had been compelled to aliment his repudiated wife and family. On the Sunday in question, being Easter Day, Chiesly, a man of fiery humour, probably insane, followed Lockhart from St. Giles' Church to his house, but a hundred yards off, in Old Bank Close—the site of which is the western pavement of Melbourne Place—and "at the entrie of the closs-head, foirnent [opposite to] Peirson's turnpyk, he with a pocket rifald pistoll shot the President in at the back," killing him on the spot. The murderer, taken "red-hand," was, according to old Scots law, tried summarily by the Provost and Bailies of the city. In view of the enormity of his crime, the Estates of Parliament, then sitting, directed that the prisoner should first be put to the torture, in order to ascertain if he had any occomplices. "He got the boots and the thumbikins." On Wednesday, 3rd April, he was carried on a hurdle from the Tolbooth to the Cross, where his right hand was "cut off alive," and himself hanged upon a gibbet, "with the pistol about his neck with which he committed the murder." Many years afterwards C. K. Sharpe's grandfather, who then owned the house of Dalry, found beneath a stone seat in the garden a male skeleton, wanting the bones of the right hand, which was believed to be that of John Chiesly.

Sir George Lockhart was the third Lord of Session to fall by an assassin's bullet. On 13th February 1543 one John Carkettle, burgess of Edinburgh, slew Robert Gal-

braith, a Senator of the College of Justice; and on 1st February 1592 John Graham, Lord Hallyards, was shot by Sir James Sandilands in Leith Wynd. It is noteworthy that in each case the criminal was an unsuccessful suitor, who considered himself aggrieved. In later times disappointed litigants have sought revenge merely in the House of Lords.

Of the ten children of the murderer, the eldest, Major Chiesly, succeeded to and sold the family estates. Another son, John, who seems to have been a chip of the paternal block, was admitted to the Society of Writers to His Majesty's Signet; but after ten years' membership, during which he is named seventeen times in the minutes "for frequent irregularities and malversations," he was finally deprived of his commission. With the fate of one of the daughters we are here concerned.

Rachel Chiesly was in her youth very beautiful, but of a violent temper—an hereditary trait. As her father's moveable goods were, upon his conviction, confiscated, and his eldest son held the lands, Rachel had no fortune but her fair face. This, however, caught the fancy of the Honourable James Erskine of Grange, a hopeful young advocate, with a combined reputation, not then deemed incongruous, for godliness and gallantry. Born in 1679, the second son of Charles, tenth Earl of Mar, and Lady Mary Maule, eldest daughter of George, second Earl of Panmure, Erskine in 1699 had pursued at Utrecht the study of the law. There, as he tells us in his diary, he enjoyed the "comararship" of his fellow-student Archibald Campbell, the future Earl of Ilay and Duke of Argyll. During the voyage to Holland the incipient lawyer "read on Rochester's bawdy poems," which he carried conveniently in his pocket; but "the wind and sea becoming prodigiously tempestuous," he laid aside that witty and wicked writer, "turned his thoughts to God, and promised ammendment if he got safe ashoar." This juvenile experience strikes the keynote of the man's character throughout his whole career. From certain frankly recorded incidents of his sojourn abroad, it is clear that his "ammendment" was but short-lived. On the completion of his studies, legitimate and otherwise, Erskine returned to Scotland, and on 28th July 1705 was

admitted a member of the Faculty of Advocates. Being apparently "a lad o' pairts," he had the prospect of going far and fast in his profession. On 4th October he was appointed Keeper of the Signet, on commission from his brother John, the reigning Earl, then Privy Counsellor to Queen Anne and Her Majesty's Principal Secretary of State, who took a fraternal interest in his advancement, and, as we shall see, was able, before his own downfall in 1715, satisfactorily to "place" his promising junior for life.

There hangs in the hall of the Signet Library, Edinburgh, a portrait of James Erskine in his prime—a florid handsome face, with fine bold eyes, aggressive nose, and smiling, sensual mouth—plainly one well equipped by Nature for his favourite role of heart-breaker. Such was the man on whom Rachel Chiesly bestowed her affections, which the busy advocate found time to cultivate to evil purpose. This achieved, he proposed, after the manner of his kind, to ride off, leaving the lady in the lurch. But he reckoned without regard to the traditions of the house of Chiesly. The betrayed damsel had no mind to "dree" penance for what Meg Dods succinctly described as "ante-nup—." One morning, with marriage-lines in one hand and a loaded pistol in the other, she sought out her faithless swain in his chamber, and significantly observing that she was the daughter of Dalry, bade him choose between honourable surrender and death. Erskine, in no position to dispute her legitimacy, and taken at a disadvantage so obvious, yielded with the best grace he could on such short notice command, and the marriage was duly celebrated, greatly to the annoyance of Mar and the Erskines, who resented alliance with a lady whose family tree was, if the phrase be permissible, a gibbet. The fact that his late father-in-law had murdered the Lord President must, one would think, have been rather a drawback for a rising junior, but Erskine, in spite of it, kept his footing on the professional ladder. "I had nothing," he writes in his private diary, "and small prospect of gaining something; by my marriage I had disobliged all from whom I expected support, yet I found myself now established in good business, and even respected and esteemed

in my employment." A wealthy relative, Mrs Hair, foundress of the Merchant Maiden Hospital, dying opportunely, notwithstanding "ane aversion" to him—she had seen him "beastly drunk"—left him executor of her will.

Mar, making the best of a bad business, in the year of the Union caused his brother, then aged twenty-eight, to be appointed a Lord of Session in succession to Sir Archibald Hope of Rankeillor, and three months later, on the death of Sir David Home of Crossrig, a Lord of Justiciary. On taking his seat on 18th March 1707 the new judge assumed the judicial title of Lord Grange, from that of the Erskine family estates, his wife, according to Scots custom, being known by the courtesy style of Lady Grange. In 1710, on the fall of the Whig ministry and the formation of a Tory Government by Harley and St. John, my Lord Grange was promoted Lord Justice-Clerk, superseding in that office Adam Cockburn of Ormiston. Mar, writing to Principal Carstares of the new appointment, expressed the hope that his brother would not be unacceptable to the brethren: "You will find him an honest man, and I'm sure he desires never to see the Government altered." Mar was so far right that Grange became the leader of the high-flying or ultra-Presbyterian party in the Kirk, but his Lordship's politics and good faith are a different matter.

In 1714 Queen Anne died, and the Whigs, under Townshend and Walpole, returned to power. Among minor revenges brought in by the political whirligig, Mar lost his secretary-ship, and Grange was removed from the office of Justice-Clerk, to which his predecessor, Ormiston, was restored. Grange, however, retained his commission as a Lord of Session and Justiciary, which he continued to hold for twenty years. "I have reason to thank God," he records in his diary on 30th October 1717, "that I was put out from the office of Justice-Clerk, for, besides many reasons from the times and my own circumstances, this one is sufficient: that I have thereby so much more time to employ about God and religion. If, while I have that leisure, I be enabled through grace to improve it for that end, I need not grudge the want of the £400 sterling yearly; for this is worth all the world, and God can pro-

vide for my family in His own good time and way." We shall see how his Lordship assisted Providence in the matter, and his peculiar method of redeeming the time. It is sufficient meanwhile to note that, despite this pious resignation, Grange deeply and bitterly resented his dismissal.

Having followed his Lordship thus far along his professional path, let us hear how his *mariage forcé* had, for better or for worse, turned out. Fortunately, upon this point we have first-hand information from the pen of "Jupiter" Carlyle, the genial minister of Inveresk. Grange's country seat, Preston House, near Prestonpans, in East Lothian, was within the spiritual jurisdiction of Carlyle's father, who owed his appointment to my Lord as patron of the parish. The judge and the old minister were fast friends, and Carlyle when a boy played often with the little Erskines. The house, a melancholy ruin, may still be seen. "He had my father very frequently with him in the evenings," says our author, "and kept him to very late hours." They passed the time in settling knotty points of Calvinism—"for their creed was that of Geneva"—and in alternate prayer; "they did not part without wine," and Mrs Carlyle deplored their too liberal libations. But there were strange gaps in their intimacy, and for months on end the minister saw nothing of his godly host. His inference was that my Lord "at those times was engaged in a course of debauchery at Edinburgh, and interrupted his religious exercises"; upon his due return to the fold, however, the discussion of Calvinism and claret was profitably renewed.

In the drumly waters of the fatal '15, which engulfed at Sheriffmuir the fortunes of his brother Mar, Grange cast no visible line. He kept house at Preston and amused himself, according to Carlyle, in laying out and planting in emulation of Mar's famous gardens at Alloa, a spacious pleasance, "full of close walks and labyrinths and wildernesses, which cost at least two hours to perambulate," with hedges of elder sixteen feet high, that sheltered the proprietor as well from the westerly and south-westerly winds, as from those shrewder blasts which mowed down his less wary brother's political wild oats. Thither, by my

Lord's permission, flocked the citizens of Edinburgh on fine summer Saturdays—" for Sunday was not at that time a day of pleasure"—and were highly gratified by the sight. But the official Eve of this East-Lothian Eden was sadly out of keeping. She was, in Carlyle's recollection, " unquiet," and led her lord a miserable life; her demeanour was stormy and outrageous; she looked longer upon the wine when it was red than was compatible with either propriety or domestic peace; finally, she slept with lethal weapons under the conjugal pillow—a disquieting foible —and her husband once showed the minister a razor which he had found concealed there. When of a Saturday afternoon the small " Jupiter " was bidden to tea with the judge's children, they always kept alternate watch at the nursery door, lest her ladyship should come suddenly upon them, though, as the little visitor remarked, the precaution was needless, " for her clamour was sufficiently loud as she came through the rooms and passages." Her appearance so struck the boy that even in his old age he remembered it clearly. " She was gorgeously dressed; her face was like the moon, and patched all over, not for ornament but use. For these eighty years that I have been wandering in this wilderness," he writes, " I have seen nothing like her." To the child of the manse she veritably seemed the Great Scarlet Whore of Babylon—a lady, he quaintly adds, " with whom all well-educated children were acquainted."

The effect produced by this prodigious dame upon her involuntary yoke-mate may be imagined; but my Lord had his compensations. His infidelities were flagrant and notorious; in an age of wine-bibbing he was a mighty toper; his voice was powerful in the counsels of the Kirk as his presence was conspicuous in her Assemblies; and he hated Walpole with a lover's ardour. A bibliophile, with a predilection for the literature of dæmonology and witchcraft, he had housed his library in a detached pavilion, " a cube of twenty feet," secluded amid the verdurous alleys of his wilderness. Thither, says Carlyle, would his Lordship retire for meditation and prayer when his lady-wife was in her fits of termagancy. The pavilion, which was accessible from the fields by a secret door, had,

as our reverend author hints, other and less reputable uses. In his diary, under date 10th June 1718, Grange ingenuously records: "I drank and whor'd and followed sensual pleasures, but I never gave over reading, tho' my lewdness hinder'd exceedingly my profitting at any study." Notwithstanding these distractions, we find him, in the same year, during the sitting of the session, studying Hebrew every morning at seven o'clock, under the guidance of Mr Goodale, professor of that language in the College of Edinburgh. The pleasures of the wilderness, with its parterres, pleached alleys and equivocal pavilion, could of course only be enjoyed "in vacance-time"; when the Court met, the family removed to my Lord's town house, situated in a court at the foot of Niddry's Wynd, on the south side of the High Street, east of the Tron Church—the name is preserved in the present Niddry Street.

In his diary, which covers the years 1717-1718, Grange gives us many intimate glimpses of his life at Preston and in Edinburgh. The MS. was edited and published in 1843 by Maidment, who considers that "his [Grange's] admissions are evidence of his candour, and his regrets proofs of his contrition." To what extent the religious professions of this judicial Holy Willie were sincere is doubtful; but Carlyle believed them genuine, "for human nature is capable of wonderful freaks." In the diary much space is unprofitably occupied with "that affair of Simson's"—a reverend gentleman whose views, then deemed heretical, on the doctrine of the Trinity engrossed the attention of successive Assemblies for fifteen years—and with the case of the Rev. James Webster, shrewdly suspected of infidelity, also long a bone of clerical contention. Of more human interest is the incident of the gardener at Preston, detected by his master in stealing the kindly fruits of the earth, and burying them in the garden, so as in due time he might enjoy them. Grange exhorted him first "to seek God's pardon, especially for going to deny what he knew to be true with imprecations, which was a most horrid sin," and then to restore the vegetables. A long afternoon is agreeably spent with a kindred spirit, one "Th. Harlaw, Gardner of Alloa"—

probably the custodier of Mar's herbaceous treasures—" in looking at my nursery and speaking about my gardens (to which religious discourse was intermixt)." He describes an edifying interview with one Mrs Brown, a retailer of smallwares in the Potterrow, whose spiritual experiences resembled those of St. Theresa; he would fain have improved their acquaintance, " but her house is so little, and thronged with children and people coming in to buy such things as she sells, that I cannot propose to continue," though he regrets the lost opportunity " now and then to talk with such as, I hope, are acquainted with the ways of God." Then, " about the end of harvest," we find him busy preparing a defence of the truth of the Christian faith, and collecting such passages in the lives of pious persons " as relates to the methods of God's dealling."

We can glance at only one more entry—the episode of the tutor's diary—which is too characteristic for omission. A certain Mr Cumming was entrusted with the education of the juvenile Erskines, of whom there were then eight. Grange, going to the young man's room in his absence to verify a quotation, spied upon the table " a little paper book wherein he had begun to write a diary." The temptation was too strong for our diarist; he sat down and read the whole. The result must have been disappointing. The tutor, it seemed, had been warned that in Lord Grange's family " he would have many difficulties to graple with," and himself wonders at his having ventured on so hazardous an undertaking. The perverseness of his pupils, and the imperiousness and unseasonableness of Lady Grange's temper, are more than he can endure; his room is so cold that it gave him a " soar throat "; and so forth—petty domestic gossip. " In Cumming's diary there is not a word of me," says Grange, with singular complacence; " he has always acknowledged that I have treated him well "; and his Lordship closes the entry with some improving remarks on a scandal concerning the tutor and one of the maidservants!

Of Lord Grange's public walk and conversation the best account we have is contained in his communings with his old friend and admirer, Wodrow, the historian of the Kirk, and in his letters to his kinsman, Erskine of Pittodrie, printed in the *Miscellany* of the Spalding Club. Grange

went frequently to London upon mysterious business, and the worthy Wodrow, whose appetite for gossip was insatiable, has recorded in his *Analecta* the contributions of his learned friend. While mainly engaged in obscure machinations "agin the Government" and his *bête noir*, Walpole, his Lordship found relief from the tedium of these intrigues in the society of "a handsome Scotch-woman," one Fanny Lindsay, who, as Carlyle informs us, "kept a coffee-house about the bottom of the Haymarket." This lady's name does not occur in the correspondence, but we shall hear of her again.

Precisely what at this time Grange was politically "up to" is unknown. He was hand-and-glove, as the phrase is, with that wily old fox of the mountains, Simon Fraser, Lord Lovat, the most famous plotter in the kingdom, and it was believed, naturally enough, that he was in close touch with his brother the attainted Earl of Mar, who shared the exile and counsel of his sovereign at St. Germains. The Rev. Mr Logan of Culross, Grange's friend and correspondent, had, he tells us, warned him to walk warily in ways political, "and if the Government could lay nothing to my charge, as he believed they could not with justice, to keep myself free of anything [that] could be lay'd hold on against me." As one not wholly guileless in such affairs Grange must have smiled at the simple advice. "My Lord Grange told me," writes Wodrow in 1726, "that he was extremely abused by not a few at Edinburgh, and represented as a hypocrite and pretender to religion." His visits to a certain Mrs Baderston had also been commented on unfavourably by the profane. "In short, he was represented as a Jacobite, and in the same bottome with his brother." These matters were reported to Walpole by "some considerable persons at Edinburgh," who described Grange as a most dangerous man and no friend to the King and Government. That his Lordship professed to enjoy the confidence of the disaffected party appears from the following entry of 1727:—"My Lord Grange tells me that he knows by direct conversation that the bulk of our Jacobites of any sense and knowledge are daily falling in their thoughts of the Pretender, their King, as a soft, spiritless man, from whom they can expect very little; and that he is of

opinion many of them will be far from venturing so much as they formerly did." Doubtless the star, never resplendent, of Old Mr Melancholy had grown sufficiently dim, but there was then in Rome a pretty boy of seven who in the fulness of time would illumine the political firmament to more striking effect. Wodrow waxes wroth at the injustice done his virtuous friend, so good a man that the very barber's lad who shaved him was converted by some seasonable words "droped" by his Lordship during that operation. Yet on 9th May 1728 he reports that certain scurrilous papers were affixed to the judge's door and other conspicuous places of the town, containing "Queries to my Lord Grange:—(1) Whether he be a Jesuit or not? (2) Whether he be a pensioner to the Pope? (3) Whether my Lord Grange can answer the former queries? (4) Whether, if he answer them, he ought to be believed?" So hard is it for even the most upright to escape the malice of the ungodly.

Of the London intelligence wherewith his Lordship kept Wodrow so assiduously posted we have space but for a single sample, of date 1730:—"The King is very weak, and thinks he does everything, but does nothing; the Queen is extremely haughty and proud, and does all things; and Sir Robert [Walpole] has as absolute a power as ever a minister had." He is grieved to report Her Majesty "exceeding loose" in her religious principles, and heaves a sigh over the spiritual state of the Chevalier, as one "perfectly abandoned to all wickedness and the very blackest of vices." Can we wonder that my Lord preferred the studious peace of the pavilion at Preston to the unwholesome atmosphere of Courts?

The Pittodrie letters above mentioned throw some light upon a strange affair which, during the years 1730-1733, occupied much of the good judge's leisure: his attempt to obtain the custody of his brother's wife. The Countess of Mar, living in Paris with her attainted Lord, became insane, and had been removed to England, where she remained under the care of her sister, Lady Mary Wortley Montagu. Grange, for pecuniary reasons connected with her property too intricate for present discussion, endeavoured by obscure and labyrinthine methods to get the lady transferred to his own keeping. "Were Lady

Mar, on her freedom, *in right hands,*" he significantly writes, "she would ratify the bargain; but if in her sister's, probably she will not. If the lady be got to freedom, and then to the settlement we wish, it will cost money; but it is worth it." In the sacred cause of freedom his Lordship accordingly grudged neither time nor outlay, but Lady Mary was too strong for him, and met his every move. Finally, fair means failing, he forcibly possessed himself of the Countess, and made off with her to the North; "but on the road," he tells us, "she was seized by Lord Chief Justice's warrant, procured on false affidavit of her sister, Lady Mary, and brought back to London, declared lunatick, and by Lord Chancellor (whose crony is Mr Wortley, Lady Mary's husband) delivered into the custody of Lady Mary." So his Lordship, out of pocket and temper, returned to Scotland. He complains that Lady Mary, as Walpole's "favourite," had unfair advantage of him. What would have happened to the poor Countess had her brother-in-law succeeded in his amiable design may be inferred from his treatment of his wife in the preceding year. "This is a ford he has rode before," says Grange of himself upon a point of strategy; a grim phrase, with reference to his own domestic experience.

We must now return to Lady Grange, whom, in following her Lord's affairs, we have unconscionably neglected. "That plague of his life," as Grange calls her, had been taxing his patience to breaking point. "With lieing impudence she threatened him and many of his friends with accusations of high treason and other capital crimes," he writes to Pittodrie, and for one politically blameless the charge seems to have unduly rankled. Wodrow tells us that, being "inhibited by my Lord" from managing his house, she left it, "and gave in a Bill to the Lords [of Session] for a maintenance." After long advisings with her relatives, it was arranged that the parties should separate, and in June 1730 the lady was reluctantly induced to sign the requisite deed, and permanently to withdraw from her husband's roof upon an annual allowance of a hundred pounds. For some months she lived in a house "a little without the town," but wearying of this retreat, she returned to Edinburgh and "took a chamber in a private house near to my Lord's lodging," in order,

as she said, that she might see him and the children going out and in, and endeavour to convince him of the sin of putting away his wife. The methods which she adopted were calculated rather to confirm her husband in his error. She made repeated noisy demonstrations before his house in Niddry's Wynd, when my Lord had company within, and the court was filled with the footmen and chairmen of visitors. "She cried and raged," he writes, "against me and mine, watched for me in the streets, chased me from place to place in the most indecent and shameless manner, and threatened to attack me on the Bench." He performed his judicial duties in daily dread "lest the honourable Court of Session should be disturbed and affronted" on his account. She waylaid his sister, the Lady Jean Paterson, coming out of the Tron Kirk one Sunday, "fell upon her with violent scolding and curses," and pursued her down Merlin's Wynd till the lady sought refuge in a friend's house. On another occasion she broke into the room of a gentlewoman employed by my Lord as housekeeper, carried off the household accounts, and "committed outrages," so that Grange had to have his house warded day and night by the Town Guard, "as if it had been in the frontier of an enemy's country." These details are from a letter of Grange to his wife's agent, Hope of Rankeillor, to which I shall return. In July, Wodrow records that he has a very melancholy account of his friend's domestic affairs, and that "things have been very dark there for some time." He ascribes the lady's behaviour to jealousy, and says she set spies upon her husband when in England, intercepted his letters "and would have palmed treason upon them, and took them to the Justice-Clerk"—Ormiston, no friend to Grange. She also attempted to murder him, "and was innumerable ways uneasy." Her allegation was that certain letters of her husband to Lord Dun "related to the Pretender." David Erskine, Lord Dun, Grange's friend and colleague, was a Tory, a Jacobite, and an Episcopalian, who, on the Bench, voted consistently against the Crown. Mr Andrew Lang thinks, as Dun was intimate with Lockhart of Carnwath, perhaps there may have been grounds for suspicion. But Grange was not the man to commit himself on paper.

The traditional cause of Lady Grange's fate is that she had secured some documentary proof of her lord's Jacobite dealings, which for his undoing she designed to take to London and deliver to Walpole. Of this there is no evidence, and her intended journey was more probably prompted by a desire to spoil his game anent the Countess of Mar, as appears from Grange's statement to Pittodrie, that if his wife went to London, as she proposed, he feared "the effect her lies may have" with Lady Mary. But to a man of Grange's temper the additional stimulus of a threatened denunciation for treason, overt or constructive, was not required. For years he had writhed in private beneath the scourge of his wife's furious tongue. She was in every sense intemperate, and her sleepless jealousy had long encumbered his amusements; now she had broken out upon him publicly, the thing was an open scandal, which, as an elder, a gentleman, and a judge, he felt to be no longer bearable. So my Lord laid the case before his friend Lord Lovat, as one experienced in dealing with domestic difficulties, and the counsel of Ahithophel prevailed.

At eleven o'clock on the night of Saturday, 22nd January, 1732, Lady Grange, having booked her seat for Monday in the London coach, and taken leave of her friends, was preparing for bed in her High Street lodging, when, as she tells us, "there rushed into her room some servants of Lord Lovat's, and his cousin, Roderick Macleod, [*horresco referens*] a Writer to the Signet," who seized the unhappy woman and attempted to secure her. My Lady Grange was not one to yield tamely to her "ravishers"; the Lovat element warned her of her danger, and she fought valiantly for freedom, much to the detriment, she says, of her skin, hair, and teeth. Finally, overborne by numbers, she was gagged and bound; in the close below stood a sedan-chair, in which sat Mr Foster of Carsebonny, who received upon his knees the considerable burden; and the others, shouldering the chair, set forth into the night, carrying her ladyship out of the ken of her contemporaries.

The disappearance of Lady Grange from the scene of her recent activities was accounted for by her projected journey to town, and in any event she was a person whose

absence was preferable to her company. Presently my Lord announced that she was dead, and few thought it a matter for condolence. But Mr Hope of Rankeillor, with whom the lady had, in view of her departure, left a factory or power of attorney, began to make inquiries; and in the autumn the "stair-head critics" of Auld Reikie were telling one another that Lady Grange had been kidnapped by her husband, with the assistance of his friend Lord Lovat, and was held prisoner by that unscrupulous chieftain in the fastnesses of the North. So soon as these rumours reached Lovat's ear, he wrote from Beaufort, on 16th September 1732, to a cousin Fraser, an Edinburgh writer, that he was not surprised the abduction of "that damned woman" was attributed to his contrivance and was said to have been effected by his servants; for had he in fact assisted so to save Lord Grange "from that devil who threatened every day to murder him and his children," he would not think shame of it before God or man; but he defied his slanderers to prove his complicity, and declared "upon honour" he knew not what had become of her. He concluded by warning "that insolent fellow, Mr Hope of Rankeillor," not to meddle with him, for if Hope attacked his character by any calumnies, he would pursue him for *scandalum magnatum;* but, on the whole, he was "very easie upon that subject, for my enemies can't hurt me if they would." What weight attaches to this denial, those who know the record of Simon Fraser can judge. From Lady Grange's account it is certain that his was the brain which devised and carried through the scheme for her sequestration.

Grange was nearing sixty when he regained his freedom; his family were grown up, one son was in the army, another in the Church (he became Dean of Cork), and his daughter Mary, who inherited a strong strain of her mother's character, was Countess of Kintore. So my Lord at last had leisure seriously to devote himself to his favourite game. "He plunged," says Ramsay of Ochtertyre, "into the abyss of politics, from which, as from a pestilence, every judge ought to keep aloof." In the spring of 1734 it was known that a General Election was at hand. Grange proposed to stand for Parliament in order to join the Opposition against his "auld enemie," Walpole, and

with the hope of obtaining the Scottish Secretaryship, then recently revived. A Bill to regulate elections was in progress, and Walpole, aware of Grange's purpose, inserted at the last moment a clause by which the return of a Scottish judge was rendered illegal. "The old race of political judges," says Mr Omand, "was thus at an end, and another of the distinctive features of Scottish public life had disappeared." But Grange rose to the occasion. "I will not be trampled on by him, Lord Ilay, and his dogs," he wrote to Lord Marchmont; "I can at least return to the Bar." He promptly resigned his offices in the Courts of Session and Justiciary, and "by intrigue and hypocrisy" became in due course member for the Stirling Burghs. "This making an Act of Parliament against me in particular," he wrote to Lord Stair, "is as ridiculous as to bring bombs and cannons to batter down a silly cottage." His first appearance in the House of Commons was singularly ill-chosen. Carlyle tells us that his maiden speech was upon the Witches Bill, and that "being learned in dæmonologia, he made a long canting speech that set the House in a titter of laughter and convinced Sir Robert that he had no need of any extraordinary armour against this champion of the house of Mar." Grange forgot that those whom he addressed were not members of the General Assembly. The Act repealing the statute of James I against witchcraft was passed in 1735. After this fiasco Grange's chance of ever being Minister for Scotland was lost. He did nothing to justify the expectations of his friends. "The truth was," says Carlyle, "that the man had neither learning nor ability. He was no lawyer, and he was a bad speaker." In the debates upon the Provost's Bill, whereby, in 1737, Walpole sought to punish Edinburgh for the affair of the Porteous Mob, Grange took a vigorous part; but he gradually drifted back to the Parliament House, where, with what feelings may be imagined, he practised again as an advocate before the Court of which for twenty-seven years he had been a judge.

But the troubles that afflict the just, in his case unusually numerous, were not yet exhausted. On Thursday, 11th December 1740, the eight years' silence shrouding the memory of Lady Grange was broken on the delivery, by

an unknown hand, at the house of Mr Hope, her agent, of two letters, written by her from St. Kilda on 20th January 1738, one addressed to Hope and another to "the Solicitor"—Charles Erskine of Tinwald, who had been Solicitor-General at the time of the lady's abduction, but was then Lord Advocate—the text of which, with an interesting facsimile, will be found in the *Proceedings of the Society of Antiquaries of Scotland* (vols. x and xi). Into the tale of her captivity, as told by Lady Grange in these letters and in her subsequent narrative, it is not here proposed, for the reason before mentioned, to enter. It may, however, be recalled that upon her *enlèvement* she was carried to the house of Wester Polmaise, belonging to a Stewart, where Lovat conferred with her gaoler as to her future custody, and that after a sojourn in Lovat's country she was taken to Loch Hourn, and thence in a sloop to the island of Hesker, remaining there until her removal by the Macleods in a galley, on 14th June 1734, to "the vile, nasty, stinking, poor isle of St. Kilda," where she had since been held in durance. "If Macleod would let it be known that he had such a place for naughty ladies, he might make it a very profitable island," said Dr Johnson in 1773. According to the exile, she was treated throughout by her various keepers with much harshness and barbarity, though it appears that, among other commodities annually furnished for her use, was an anker of spirits, a mistaken kindness in view of her unfortunate failing. The delay in communication with her friends arose from her difficulty in getting the means to write, and, having written, in finding a trustworthy messenger—she was penniless, and such services were not to be had in the Outer Hebrides for nothing. Frasers, Stewarts, Macdonnells, Macdonalds, and Macleods, with the sinister figure of my Lord of Lovat looming portentous in the background, were by her account severally responsible for her sufferings. That men of the position and importance she names took a hand in such a dangerous game merely, in Mr Lang's phrase, to pleasure Grange in a domestic quarrel, is unlikely. Either the poor woman *had* surprised some Jacobite secret sufficiently important to justify her suppression, or, more probably, her husband for his own purposes induced these Highland gentlemen to believe

so. In any case, the powerful influence of Lovat would count for much.

Hope, having laid the matter before the Lord Advocate, on 6th January opened fire on Grange himself, who was then in London. His Lordship replied at great length (the correspondence is printed in the Pittodrie letters), complaining that Hope should have consulted him before "strange stories were spread over all the town of Edinburgh, and made the talk of coffee-houses and tea-tables." He defended his action in restraining his wife on the ground of her impossible behaviour, maintained that during her sequestration she had been kindly treated, and undertook to investigate the charges of ill-usage. Hope, in answer, denied that he had spread the tale, which he said was known from a narrative by Lady Grange, copies whereof had been disseminated throughout the city. "Finding the story blaze almost over all," he had even dragged the Lord Provost from his bed to interdict the printing of the narrative. The reference is to her ladyship's statement of her case, dictated by her in St. Kilda to a catechist, who brought it to the mainland. The M.S., which is said to have been addressed to the minister of Prestonpans, was first printed in the *Edinburgh Magazine*, November 1817. From Hope's letter it would seem that the lady's advisers admitted the necessity for some measure of restraint upon her actions; what they complained of was the cruel and barbarous methods adopted, "to the reproach of the country, of Christianity, and all her relations." As neither Grange nor the Lord Advocate did anything further in the matter, Hope applied to the Court of Justiciary for a warrant to search for and liberate his unhappy client, but this application, being opposed by Grange, was refused. Hope, then, of his own motion, chartered a brig, which was to proceed to St. Kilda and re-kidnap the lady, but the vessel got no farther than Oban, where the captain put in to land the catechist's wife, shipped as supercargo and pilot, with whom, unfortunately for the success of the enterprise, he had quarrelled *en voyage*. Chambers tells the story.

Meanwhile, those responsible for Lady Grange's detention had prudently removed her to Assynt, in Sutherlandshire, and afterwards to Skye, where, in May 1745,

the prisoner at length obtained her release from a higher power than the Lords of Justiciary, and her thirteen years' imprisonment was over. She was buried at Dunvegan. Mr Mackenzie, in his "Life" of Lovat, states that the original receipt for her board and funeral expenses is preserved at Dunvegan Castle. "I most heartily thank you, my dear friend, for the timely notice you gave me of the death of *that person*," writes Grange in acknowledging receipt of the news. "It would be a ridiculous untruth to pretend grief for it. Her retaining wit and facetiousness to the last surprises me." And truly there was matter of amazement in the retention of such qualities by one so circumstanced.

Of how Grange employed the closing years of his long life little is known, but Carlyle gives us one graphic picture. In the summer of 1741 Lovat brought his second son to school at Prestonpans, the dominie, one Halket, having been tutor to Master Simon, my Lord's hopeful heir, and Carlyle, then a student of nineteen, was suggested as a suitable companion. The boys and the schoolmaster met as Lovat's guests at dinner at Lucky Vint's, the village alehouse, Mr Erskine of Grange being also of the party. Carlyle noticed that Grange was very observant of Lovat and did everything to please him. The two old gentlemen disputed for some time which of them should say grace, Lovat in the end admitting Grange's claim to superior sanctity. This was well, for the fish served proved to be haddocks, against which Lovat, having bespoke whitings, had been very peremptory with the landlady; he stormed and swore more than fifty dragoons. The claret, however, was excellent, Lovat and Grange grew very merry, and their conversation became youthful and gay. The latter had brought the piper of his old colleague and neighbour, Lord Drummore, but Lovat despised him, and rudely remarked that he was only fit to play reels to Grange's oysterwomen. The landlady's daughter, a nymph of greater physical than moral beauty —she was Drummore's mistress—acted as Hebe on the occasion. Lovat grew frisky, and gallantly saluting Miss Kate, insisted that she should dance a reel with him, which, with the co-operation of Grange, was duly performed. Carlyle thought the young lady very alluring.

Lovat was then sixty-five and Grange sixty-two; it must have been an edifying spectacle for the boys. Though night approached and my Lord Lovat's carriage waited at the door, Grange would not hear of parting, so Master Fraser was sent to bed, and the convivium was adjourned to Preston, where, in the discreet pavilion, a banquet was spread, involving a new deluge of excellent claret. At ten o'clock the two seniors mounted their coach for Edinburgh, and thus, says Carlyle, closed a very memorable day. For a divinity student still in his teens it is to be hoped that the experience was unique.

Six years later the "old grey head" of Simon Fraser fell by the axe upon Tower Hill. The man was steeped in treason to the lips, yet the last use he made of them was to utter the Horatian tag, *dulce et decorum est pro patria mori.* It was an end that must have excited the envy of his "worthy friend," Lord Grange.

After this Grange fell upon evil days. He lived much in London, and by 1748 was so reduced as to accept a loan of two guineas from a fellow Scot. Through the influence of Lord Stair he was granted a pension of £200, presumably because at one time he acted as secretary to the Prince of Wales—"Fred, who was alive and is dead." He had married his old flame, Miss Lindsay of the Haymarket; and, confident in her capacity to play the part of *grande dame,* Mistress Fanny induced him to establish her in his house of Preston, where she kept but lonely state amid the faded relics of her predecessor, whose desolate and neglected garden was typical of her fate. The county families, Prig-like in a double sense, knew "no sich a person"; nobody called except my Lady Prestongrange and Mrs Carlyle, "wheedled into it by the old gentleman." The experiment was not repeated; and the sprightly Fanny, resenting such disregard of her attractions, ordered a retreat to London, where her company was better appreciated. There, as we learn from the *Gentleman's Magazine,* on 20th January 1754, died the "Hon. James Erskine of Grange, Esq., brother to the late E. of Mar, aged 75"—not being then so much thought of, says Carlyle, as to be despised or hated. It was but one old huckster the less in the thronged booths of Vanity Fair, and business was conducted as usual.

THE
PACK OF THE TRAVELLING MERCHANT

Perhaps nothing, not even a ghost, is so staggering to the powers of belief as a well-authenticated dream which strikes the bull's eye of facts not known to the dreamer nor capable of being guessed by him.—*The Book of Dreams and Ghosts.*

Among the instances of spectral and dream testimony recorded in our criminal annuals the case which I propose to recall is second in interest only to that of Sergeant Davies. Of the slaying of that worthy, and of the part played by his ghost in attempting to bring his murderers to justice, I have elsewhere given some account; and the manner of his dispatch and reappearance has been investigated both by Mr Hill Burton and by Mr Andrew Lang. The circumstances attending the murder of Murdoch Grant, however, are less familiar; and that they failed to attract the notice of those inquirers is to be regretted. The The facts in their supra-normal aspect would strongly have appealed to Mr Lang. But the entertaining collection of evidence which forms his contribution to the to the literature of apparitions makes no mention of the godly young schoolmaster of Assynt, with an extra-mural weakness for damsels, dress, and drams; of the secret which the dark waters of Loch Tor-na-Eigin shrank from keeping; nor of the Voice that whispered at midnight in the ear of Kenneth the Dreamer. These, so far as I am aware, are the only two cases of dream testimony known to Scots jurisprudence, the atmosphere of the Justiciary Court being, as appears, unfavourable to ghostly evidence.

Of the English cases the best examples are furnished by the fair sex. On 23rd December 1695 a victualler of Grub Street, London, named Stockden, was murdered by some persons unknown. Justice was at fault, until one Mrs Greenwood volunteered the statement that the dead

man had appeared to her in a vision, and had shown her a house in Thames Street where, he alleged, one of his murderers lived. On two subsequent occasions the *revenant* showed her further the portraits of his assassins. The likenesses must have been excellent, for the dame was thereby enabled to identify the subjects, who duly suffered on the scaffold. An account of the case was published by the Rev. William Smithies, curate of St. Giles, Cripplegate, in whose parish the circumstances occurred. A more modern instance is furnished by the well-known case of Corder, who on 18th May 1827 murdered Maria Marten at Polstead, Suffolk. After Maria's disappearance her stepmother dreamed on three successive nights that the girl had been murdered and buried in a lonely hut called the Red Barn. The dream proved true, and was the means of bringing Corder to the gallows. On the night of the ceremony, as Macready was playing *Macbeth* at Drury Lane, delivery of the line " Is execution done on Cawdor? " elicited from the front the unexpected reply, " Yes, sir; he was hung this morning at Bury." There are several reports of the trial, which excited much interest in its day. In Ireland, too, a curious case occurring in 1751 is preserved in the *Newgate Calendar*. Adam Rogers, an innkeeper of Portlaw, near Waterford, dreamed one night that he saw at a certain green spot in an adjacent mountain two men, one of whom attacked and slew the other. Profoundly impressed by the vividness of the scene, he told his dream to his wife, neighbours, and parish priest. Presently there came to the inn two strangers, Hickey and Caulfield by name, in whom the landlord was horrified to recognise the actors in the visionary tragedy. He failed to persuade the foredoomed victim to depart from his companion's company; they left the house together, and shortly thereafter Hickey was found robbed and murdered at the destined spot. Identified by the innkeeper, Cauldfield was tried, convicted, and executed, the priest at the trial corroborating the dreamer's tale.

Apart from its supernatural elements, however, the present case is important, not only by reason of the astonishing psychology of the youthful malefactor, which is in itself a sufficiently remarkable illustration of the

peculiar puritanism of the Highlands at that period, but also as affording a fine example of a conviction upon purely circumstantial evidence, completely justified by the subsequent confession of the criminal.

Readers of *The Pirate* will remember that crafty character Bryce Snailsfoot, the peripatetic vendor of smallwares about the Northern Isles, designed in the local dialect a jagger. Such was the occupation followed by one Murdoch Grant, a disciple of Autolycus, whom we should now call a pedlar, packman, or hawker, but who in the more picturesque language of the time was dignified by the style and title of travelling merchant. "It's a creditable calling and a gainfu'," as Andrew Fairservice remarked, "and has been lang in use wi' our folk." A native of the west coast of Ross-shire, Murdoch when at home lived at Strathbeg in Lochbroom, and his business connection embraced the shires of Sutherland, Ross and Cromarty. Travelling on foot with his pack upon such an extensive beat, and in a country so sparsely populated, his appearance at the several villages within his circuit were necessarily of the nature of angels' visits; and the goodwife who renewed one day her stock of napery from his store, might have to wait long before the course of his itinerary brought him to her door again.

On Thursday, 11th March 1830, in the parish of Assynt and shire of Sutherland, were celebrated the obscure nuptials of a damsel named Betty Fraser and the man of her choice. We are not further concerned with the humble pair, their union merely serving to fix a date which enabled divers persons, who had no other means of reckoning the flight of time, afterwards to speak to certain events with reference to that occasion. Murdoch Grant attended the marriage festivities, and a wedding being good for trade, he lightened his pack materially at the expense of the company. When he left home for Assynt he had valued its contents at £40, and he also carried with him in a red pocket-book a sum of £15 or £16, it will be seen that the travelling merchant was in a fair way of business. As a thriving bachelor there was no one's convenience he need study but his own; he was stout and healthy, and had been so for some five-and-twenty years; and his family relations were limited to a brother in Ross. For a week after the

marriage Murdoch remained in the district, staying at nights in the houses of his various customers, his intention being when he had supplied the requirements of Assynt and had collected some outstanding debts, to return to Strathbeg in time for St. Patrick's market, which was held in the middle of spring. On Thursday, 18th March, he set out for Drumbeg to look up certain of his debtors, passed the night there in the house of one Alexander Graham, and was met next morning with his pack upon the road on his way back from the village, going in the direction of Nedd. After that fateful Friday Murdoch Grant was seen no more among the living; on the bleak moors of Assynt, beyond the Sutherland hills, he had made his last journey: the travelling days of the merchant were done. His disappearance from the neighbourhood caused little comment; his business was over, and it was assumed that he had returned to Strathbeg. His friends there, believing that he had gone into the Reay country, made no inquiries for him in Assynt.

The part of that parish with which we are concerned is bounded on the west by the sea. "Barren moorlands and grey sterile beaches with flinty sands; troops of forlorn pines along the hillsides where the red deer keeps his ward; rents of blue sea sprinkled with green desolate islands: a God-forgotten land"—so has it been described, and the scene is sufficiently forbidden for the setting of a great crime. Murder, to be fully effective, should be done out of doors, and if possible amid surroundings agreeably savage. Exeryday rooms of commonplace houses are, to my mind, not in this connection appropriate. The only place of such sinister association I ever saw that, so to speak, filled the bill is the gully of Coire-na-Fuhren at the head of the great grim glen of Sannox in Arran, where Rose met her death at the hands of his friend. Madeleine Smith's bedroom, the basement in Sandyford Place, Dr. Pritchard's parlour, the *troisième étage* of M. Chantrelle, Miss Gilchrist's dining-room—all are alike curiously inadequate, and fail to satisfy the anticipatory sense of dread. But Tragedy does seem suitably staged in Assynt. The district abounds in mountain lochs of varying depth and size, wild, solitary watering-places of the deer, but rarely visited by the foot of man. One of these, a deep

precipitous tarn named Loch Tor-na-Eigin, lies by the way leading from Drumbeg and Lochindarroch to Lynmeanach and Lynmore.

A month after Murdoch Grant's departure, a boy, John Mackenzie, son of a cottar in Drumburg, passing this loch saw the body of a man lying in the water, then, owing to the dryness of the season, unusually low and clear. On his return home he told what he had seen. The news spread quickly through the neighbourhood, and presently, surprising as it seems in a place so thinly populated, some fifty folk assembled by the water-side. The body was dragged ashore; the antiseptic properties of the moss of which the banks of the loch consist had delayed decomposition, but the face and head showed manifest signs of injury, and were not readily recognisable. Among those who stood gazing at the poor remains and speculating as to their identity was a tall, fair, good-looking lad of twenty, Hugh Macleod by name, who despite the fewness of his years was himself what Mr. Squeers termed "a instructor of youth," and of whom I shall have more to say in the sequel. They debated whether the dead man had perished by suicide or by accident, or had met with foul play; and in accordance with the ancient Scots belief in the ordeal by touch, of which the case of Philip Stanfield in 1688 furnishes so striking an example, those present drew near and severally touched the corpse. It was remarked at the time that of the company Hugh alone refrained; probably, being a schoolmaster, he contemned their ignorant superstition. He gave, however, his vote for the theory of accident. And now there arrived upon the scene one who had known the pedlar well, and at once identified the body as that of Murdoch Grant—but there was no sign of his pack. Then an elder of the kirk decided that someone should go to the manse, tell the minister what had happened, and arrange with him for the burial. Hugh Macleod, as the best educated person present, was unanimously named for the job. But the young schoolmaster, strangely enough, was averse from accepting office; evening approached, the manse was six miles distant; a twelve-mile walk was indicated, and he disliked travelling alone in the dark —his superior education nothwithstanding, Hugh, as appeared, did after all retain some leaven of superstition.

So it was arranged that another lad, Donald Graham, should bear him company, and they accordingly set forth upon their errand. By general consent the body was then committed to the water, "to kep it fresh until next day," the people sought their widely-scattered homes, and night and silence fell upon Tor-na-Eigin.

Meanwhile the two lads proceeded on their journey, Hugh meditative, and Donald full of the day's mysterious discovery. Donald, boy-like, was all for robbery and murder, and held it a very hard thing that, as it had occurred so near to where they lived, they might themselves be suspected, "though God and man knew that they had not done it." Hugh stopped, and looked at his companion: "Do you think that I would do it?" he asked. Donald protested that he could as soon conceive his own little brother guilty of such a crime. "You are right, my lad," said Hugh heartily, and remarked that he had never even seen the pedlar. When they reached the manse Hugh delivered to the minister the elder's message, and invoked his aid in the matter of "a body that had been drowned." The Rev. Mr. Gordon was much concerned; he inquired regarding the appearance of the body, and how it came to be in the loch. Hugh replied that it exhibited certain scratches, due, no doubt, to tossing about in the water and knocking against the rocks; as to the cause of death, that, he said, was plainly either accident or suicide. Donald, not having inspected the body closely, expressed no opinion. The two young men then went back to their homes, where Hugh, at least, slept better and longer than usual.

Next morning the minister and his parishioners were at the loch betimes, the body was taken out of the water, placed in a coffin which had been provided, and buried upon the spot—this in spite of the fact that the injuries to the head were visible wounds, not scratches, that nothing was found upon the body, that the pockets, being turned inside out, had presumably been rifled, and that the pack with all its valuable contents was missing. Hugh, as has been said, slept well; he even overslept himself, and was too late to attend the obsequies, but he was seen to watch the proceedings from an adjacent hill. So the travelling merchant lay at last in his resting grave, and was like to be

forgotten; how his pilgrimage ended in those deep and secret waters no man might ever know.

The gentle reader, that discerning person, will doubtless have observed that probably there was more in our young schoolmaster than has hitherto been allowed to meet his eye, and the time is come to justify his acumen. For my ability to execute this purpose I am indebted to a pamphlet, now rather rare, published at Inverness, and entitled *Life of Hugh Macleod, Assynt.* The subject of this anonymous biography, the only son of Roderick Macleod, tenant of the croft or small farm of Lynmeanach in Assynt, was born in 1809. His parents, hard-working, decent folk, thought no sacrifice too great for their favourite child, and little Hugh found his lot easier and more pleasant than usually befalls a boy of his class. Special care was taken of his education, his father early instructing him in wordly and religious lore; and when in time he outgrew the limits of the paternal curriculum, there being no school within a suitable radius, a tutor was actually engaged to teach him for two years. The boy was bright and engaging, physically and mentally; his biographer exhausts the available adjectives in marshalling his many virtues, but it is fairly obvious that Hugh was from the first what critical relatives term a spoilt child. Later he went to a school which had been opened in the district; in summer he helped his father about the farm, and in winter devoted himself to his studies. But the education of the young scholar proved more costly than his parents' narrow means could bear. It became necessary that the lad should contribute something to the family exchequer, so a situation as shepherd was found for him with a neighbouring farmer. Unfortunately his fellow-servants were a wild lot; the precepts of the Shorter Catechism, in which he had been so sedulously drilled, soon ceased to regulate his conduct. Gambling at cards, swearing, and, his biographer is horrified to add, using the Sabbath to train and exercise the sheep dogs, were among the vices which he acquired from the companions of his pastoral pursuits; to these fell later to be added a taste for whisky and, in his own curious phrase, a notion for pretty dress. The national failing calls for no comment; the personal vanity is more interesting. This love of fine

raiment, so remarkable in view of the lad's circumstances, was the result of that weakness which Mr. Weller deemed an amiable one: devotion to the softer sex. Hugh had laid to heart the philosophy of Fergusson: —

If ony mettl'd stirrah green
For favour frae a lady's e'en,
He maunna care for being seen
Before he sheath
His body in a scabbard clean
O' gude Braid Claith.

For, gin he come wi' coat thread-bare,
A feg for him she winna care,
But crook her bonny mou' fu' sair,
An' scald him baith;
Wooers shou'd ay their travel spare
Without Braid Claith.

As the peacock displays his splendid plumage to the best advantage in sight of the admiring hen, so Hugh sought to captivate the country maidens by the goodliness of his apparel. He seems to have been only too successful. But the part of Don Juan is even on a provincial stage an expensive one to play; debts and other obligations were incurred, and the lad began to seek in drink forgetfulness of the mercantile and moral claims accumulating against him. His declension was of course gradual; but Sabbath-breaking in due time blossomed into burglary. In 1828 Hugh, being then eighteen, left the farm, and was appointed assistant schoolmaster at Coigach in Lochbroom. This, from what we know of his character, seems surprising; but his biographer assures us that he still enjoyed a fair repute of "a youth whom the parish looked upon as the good son of a pious father: a moral, model lad." Beneath this admirable surface, however, the current of his life was running ever to darker and more dangerous depths. His social position had improved with his professional advancement; such society as those outlandish parts afforded was open to him, his good looks and manners made him everywhere welcome, and at weddings and dances he was in high request. His appearance was even braver than before, as became the more refined taste to which it was

now addressed. All this meant money, and money in that "God-forgotten land" was hard to come by. His biographer states that the young schoolmaster's salary was "all expended before it was earned"—rather a Hiberian way of putting it; his credit was exhausted, and he was faced with exposure and disgrace.

In June 1829 he broke into a shop in Lochbroom, robbed the till, and stole, characteristically, a web of stylish tweed. This he hid under a cairn of stones, where it lay till the affair blew over. When winter came round he had it made into a new suit, explaining that he had bought the cloth from a travelling merchant On another occasion he stayed at home one Sunday on the plea that his shoes were in bad repair. When everybody else was in church and the houses were deserted, Hugh let himself into a neighbour"s cottage, opened a chest with his own keys, and abstracted the 'pose' which the thrifty Scot is wont to consign for safety to "the benmost part of his kist nook."

These were mere temporary expedients, and but postponed the day of reckoning, so Hugh decided upon a bolder stroke that should at once discharge his debts and replenish his clothes-press. He had left his situation at Coigach—whether voluntarily or not we do not know—and by 1830 was at the school of Nedd, nearer his own home, and was living with his parents. There were then hardly any shops in Assynt, the commercial affairs of the district being, as we have seen, conducted by migratory pedlars, who came and went about the countryside after the fashion of the wind. These men in the course of their journeyings must make plenty of money, which *ex hypothesi* they would have about them; the contents of their packs, too, would form a welcome addition to the wardrobe of a young gentleman in difficulties. Such persons having no abiding city would, in the event of their disappearance, be less likely to be missed than settled folk. Pondering these things, Hugh made up his mind. A strange conversation which at this time he held with a boy coming home one day from school is recorded by his biographer. "'We are poor, Donald," said the schoolmaster, 'and there are plenty travelling merchants here about. Though we should kill one of them and take his

money, there would be no harm.' 'But we could not do that without being found out,' said the boy, whose name was Donald Wilson. 'Would you tell?' said Hugh; 'for if you would not tell, we could do it easily enough.' 'Oh, Hugh, Hugh!' was the reply, 'though I should conceal it, God would not conceal it.'" Perceiving the propriety of his pupil's sentiments Hugh changed the subject, but not, as we shall shortly see, his mind. It is to be hoped that with so unscrupulous a pedagogue, the moral sense of the other scholars was as sound as Master Wilson's; from what source soever he had acquired his principles, they were certainly not derived from his preceptor.

Our Eugene Aram was too sanguine in more respects than one. The episode was not to close with the moorland grave, neither was the arm of the law shortened in Assynt. Word of the irregular doings at Loch Tor-na-Eigin reached the ear of the Procurator-Fiscal for the county. This functionary, who in Scotland exercises at will and in his single person all the powers of an English coroner and jury, decided that the case called for investigation, and on 29th April, accompanied by the Sheriff of Sutherland and by two local doctors, he arrived upon the scene of action. The coming of these authorities caused a sensation in the district, and once more the solitude of the mountain tarn was invaded by a wondering crowd, among whom, to borrow a familiar phrase of G. P. R. James, might have been observed the handsome figure of the schoolmaster. Hugh is said to have been recommended to the Sheriff by the minister as a skilful and trusty person, on whom perfect reliance might be placed! There was no hanging back now, as on the occasion of the burial. Hugh gave ready assistance in opening the grave, the body of the pedlar was exhumed, and, having been identified by Alexander Grant as that of his brother, the doctors made upon the spot a post-mortem examination. The result was embodied in a report of which we shall hear again; meantime it is enough to note that the reporters found upon the head certain dreadful wounds and fractures, inflicted as they believed by a hammer, and that these were in their judgment the cause of death.

As Hugh watched the surgeons at their gruesome task, the strange thought crossed his mind that he himself

might one day be the subject of a similar autopsy. He shook off these ugly forebodings, however, and placed his services at the Sheriff's disposal in the precognition which his Lordship proposed to hold regarding the affair. During this inquiry the officials were invariably attended by the schoolmaster, "who through his acquaintance with the Gaelic tongue, and his knowledge of the inhabitants, proved of great assistance as an interpreter." But in spite of these advantages the evidence obtained threw little light upon the tragedy. No one had been seen with the pedlar after he left Drumbeg, no article belonging to him had been found, and the pack and its contents were still missing.

At this stage, when the inquiry seemed fruitless, an incident occurred for which we have the authority of a writer in *Fraser's Magazine* (December 1856), to whom I am already indebted for certain facts supplementary of the official biography. By one of those accidents which will happen in the best regulated crimes, Hugh chanced not to be at the Sheriff's elbow when his Lordship one day visited the village post office. "During a desultory conversation the postmaster incidentally stated that soon after the date of the murder he had given change for a £10 Bank of England note to a person who, he did not think, *should* have had so much in his possession." The Sheriff was surprised to learn that the reminiscence related to his scholastic assistant. This clue obtained, the inquiry was resumed, and was directed to the state of the schoolmaster's' finances before and after the crime. On this occasion his services as interpreter were dispensed with. The evidence upon the point was deemed highly suspicious; and Hugh , being informally examined, and failing to give any explanation more satisfactory than a flat denial of all that the witnesses said, was arrested and taken to Dornoch. "In the declaration which he emitted before the Sheriff," says his biographer, "there were so many statements that were inconsistent with his former explanations, as well as several falsehoods, that the Sheriff committed him to jail on a charge of murder. In a second and third declaration, made before the Sheriff-Substitute, Hugh got himself still further involved in a mesh of falsehoods, and these were an important part of

the evidence against him. When questioned by the officials regarding the stockings he wore, and some blood marks on his coat, he replied that the former were his own and that the blood was that of a bird he had shot. I shall return to the stockings later.

While Hugh lay in Dornoch jail his biographer informs us that he "maintained his usual carelessness of demeanour and love for fast living, and he actually found means to purchase whisky through the jail window with the pedlar's money." In the circumstances a fast life must have been difficult to lead, though Hugh's was, in a sense, then fast enough. As to the facilities of communication with the outer world, Alexander Sutherland, a shoemaker, who, I regret to say, hailed from the Canongate of Edinburgh, stated at the trial that, being in Dornoch one day in May 1830, he was passing the prison when Hugh threw out to him from the window a snuff-box containing a pound note, with the request that he would get the box filled and the note changed. It appeared on cross-examination that though he executed the commission, the perfidious shoemaker returned only five shillings of the change. The prisoner's comments upon this transaction are not recorded. He was visited regularly by the Rev. Mr. Kennedy, to whom he stoutly protested his innocence. As on these occasions the good man always prayed that the perpetrator of the crime might be brought to justice, Hugh must have found his ministrations rather tedious.

One night the prisoner had a remarkable dream which he afterwards confided to the minister. He dreamt that he stood in a burial ground he had never seen before, watching an old man digging a grave, by the side of which lay an empty coffin. When the grave was finished the visionary sexton turned towards him, and he was horrified to recognise his father's face. "Hugh," said the old man, "here is your grave; lie down in it now, for your time is come." Hugh, seized with terror, pleaded for delay, and the old man, moved apparently by his son's distress, said, "Well, Hugh, go for this time, but remember that in a year your coffin will meet you. Mark that; do not forget." What weight attached to the old gentleman's phophecy will presently appear; if Hugh told the truth the

coincidence is curious. He was shortly thereafter taken to Inverness, where the trial was fixed to take place on 23rd September 1830 at the Autumn Circuit in that town. Lords Meadowbank and Mackenzie presided, the diet was called, the indictment read, and the usual interlocutor of relevancy pronounced. The clerk then began to draw the names of the jury. Two special jurymen having been challenged by the pannel and one by the Crown, the clerk announced that there was not a sufficient number left to form an assize. The diet was accordingly deserted *pro loco et tempore,* and the prisoner was re-committed on a new warrant. The proceedings are reported in the *Edinburgh Courant* of 25th September 1830.

Meanwhile we leave Hugh in durance at Inverness awaiting his new trial, and approach the supernatural element which distinguishes his case. Among those who had joined in the search for the missing pack was a young man named Kenneth Fraser, locally known as "The Dreamer." Whether he owed the designation to an habitual gift of the second sight, or whether it was due merely to his experience in this connection, does not appear. He was employed as a journeyman tailor in Clachtoll, and was on friendly terms with Hugh Macleod. One night in the spring of 1831, when the search had been abandoned as hopeless, Kenneth, being asleep in his own home, heard "a voice like a man's" which said to him in Gaelic: "The pack of the merchant is lying in a cairn of stones in a hollow near their house." Who "they" were the Voice did not specify, but the words were accompanied by a clear vision of the place—then unknown to Kenneth, but which he later had no difficulty in recognising as situated on the south-west side of Loch Tor-na-Eigin—"the ground fronting the south, with the sun shining on it, and the burn running beneath Macleod's house." He saw the scene plainly: "just as if I had been awake." Kenneth told to the authorities his weird tale, and forthwith was sent with an officer to see if he could identify the spot. He soon found the place, exactly as he had seen it in his dream, but, alas! a search in the hollow yielded no result: "We found nothing there." Pursuing their investigations up the burn-side they presently discovered, hidden in a hole among the stones, certain

articles which were afterwards identified as the pedlar's property. "I had not seen this place in my dream," says Kenneth, "but it was not far from the place I had seen in my dream that the things were found." Now, though unwilling to anticipate the *dénoûment,* I may here observe that, as Hugh himself tells us, the pack was first concealed in a cairn of stones near the scene of the crime, that later it was otherwise disposed of, and its contents were hidden where Kenneth found them in April 1831. It would be instructive to know whether the original cache were not presented to the mind's eye of the Dreamer in the midnight vision, but on this point we have, unfortunately, no light and the relative dates are not given. One would prefer to accept this view rather than believe that a Voice from another world either made a stupid blunder, or, worse, failed wilfully to tell the truth. Kenneth's good faith in the matter seems indisputable, as will appear when later we consider his evidence.

When, in due course, my Lords of Justiciary came to Inverness upon the Spring Circuit, Hugh was once more placed in the dock before them. On 26th April, the diet having been called, the Advocate-Depute at once rose and moved that it be deserted. He was, he said, most unwilling that the trial should be again postponed, but circumstances had unexpectedly arisen which left him no alternative but to ask for an adjournment. New information of great importance had been communicated within the last six days as to the discovery of the greater part of the pack of the unfortunate man who was murdered. The communication to which the prosecutor referred had, as we have seen, been made by the ghostly Voice, but no doubt the Advocate-Depute felt a delicacy in citing to the Court so impalpable an authority. The other ground upon which his motion proceeded was more normal. One of the most important witnesses, George Mackenzie, Lochinver, though personally summoned to attend, had absented himself, and application was made for a warrant for his apprehension and committal until the next trial. The Court granted the motion and the required warrant. The proceedings are reported in the *Courant* of 9th May 1831. So Hugh was taken back to prison; it almost seemed as if there were something in the visionary-grave business

after all. Perhaps he too thought so when within a year of it he was again called upon to face his judges.

On Tuesday, 27th September 1831, eighteen months after the pedlar's death, Hugh Macleod was placed at the bar of the Circuit Court of Justiciary at Inverness to answer for the third time the charge of his murder. In view of the interest of the proceedings it is regrettable that the trial was not officially reported, the excellent series of Justiciary Reports which was begun in 1826 being for the time discontinued. We have therefore to rely upon the newspaper reports, the best of which is that of a local journal, the *Inverness Courier;* those of the *Scotsman* and *Courant* are provokingly brief, the leading papers of the day having then no room for anything unconnected with the Reform Bill. The judges were Lord Moncrieff, of whom after forty years of unbroken friendship Henry Cockburn wrote so kindly, and Lord Medwyn, the friend of Scott, who often mentions him in the *Journal.* The prosecution was conducted by the Advocate-Depute, whose identity is merged in his office—he is named in none of the reports; and the prisoner was defended by Charles Neaves, in later life a witty and gifted judge. The indictment charged the pannel (first) with having, on 19th March 1830, on the south-west side of Loch Tor-na-Eigin, feloniously assaulted Murdoch Grant, pedlar or travelling merchant, with a hammer or other instrument, by beating him about the head until he became insensible, and shortly afterwards died in consequence of the wounds so received; and (second) after disabling him from making resistance, with having robbed him of £30 in bank notes, a purse containing £6 in silver, and a pack containing silk handkerchiefs, prints, cottons, and worsted stockings, to the value of £4. The pannel pleaded not guilty, and after some formal evidence Alexander Grant, the dead man's brother, was called. He told what he knew of Murdoch's property and plans, when he last saw him alive, and how he identified him at the exhumation. Then the boy who discovered the body, and divers witnesses to its being taken out of the loch, took up the tale. Hugh's behaviour on that occasion was described, and the Rev. Mr. Gordon narrated his visit to the manse when he sought to give the impression that it was a case of accident. Drs.

Ross and Grant were next examined to prove the medical report. The injuries which they found upon the body were as follows:—

An incised wound about one and a half inches behind the left ear of two inches in length and the whole external ear completely destroyed, the temporal and parietal bones being battered in. A little behind the left ear there was another wound which penetrated to the bone. We also discovered a vertical deep wound immediately below the external angle of the left eye of an inch in length. On examining under the chin we found a deep wound of about an inch in length, and the jawbone completely fractured. On the right side of the head we found a tumified contusion, and on cutting it and removing the external integument we met with a quantity of coagulated blood. Having also examined the thoracic and abdominal viscera we found the whole of the organs in a very sound and healthy state.

These injuries caused death, and were, in the reporters' judgment, inflicted by a blunt-edged iron instrument, such as a shoemaker's hammer or a hatchet. They were further of opinion that life was not instantaneously extinguished, because of coagulation having taken place in the severe contusion on the right side of the head. The remarkable preservation of the body was due to the antiseptic properties of the moss in which it had lain. They believed that life was extinct before the body was committed to the water. A hatchet, hammer, and piece of iron being produced, both the medical witnesses agreed that any one of these was capable of producing the injuries. In reply to the Court, they stated that it was impossible the wounds could have been caused by the body being knocked about in the water.

The next set of witnesses spoke to the movements of the pedlar prior to his disappearance. They were vague as to dates, but they all remembered Betty Fraser's wedding, which was proved to have taken place on Thursday, 11th March 1830, and were enabled to speak to certain events as occurring within the ensuing week. With several of them Grant had spent a night; they had seen his money and the contents of his pack. Evidence was then led to show that the pannel had been in

possession of goods belonging to the deceased. It was proved that after Hugh's arrest the stockings which he was wearing were taken from him in Dornoch jail. These were now produced, together with a second pair found in his room, and the following evidence in regard to them was given. Mrs. Gordon, wife of a shepherd at Lochinver, stated that a month before the Sheriff came, the prisoner and Donald Graham were in her huse one wet day. Hugh asked her for a pair of dry stockings, and left with her those he was wearing. They were never reclaimed by him, and she identified them as now produced. Donald had chaffed him about "changing his feet," saying his own were equally wet, but Hugh replied, "What do you know about why I put them off?" Robert Gordon, her husband, and Donald Graham, both corroborated this, and also identified the stockings. Donald was the lad who had accompanied Hugh to the manse, as already mentioned. Widow Mackay stated that one day in the spring of 1830 Murdoch Grant and Hugh Macleod came together to her house in Drumbeg. She bought some cotton from the pedlar, for which she gave in exchange two pairs of worsted stockings knitted by herself. She identified those produced as her own work, but could not swear they were the actual stockings which she gave to Grant. She had sold only one other pair since, to a man who went to the herring fishing. Hugh and the pedlar left her house together; they seemed on most friendly terms. Grant told her he intended staying with Alexander Graham that night. This fixed the date as Thursday, 18th March. Her son, who had been present on the occasion, corroborated her statement. Then Anne Macleod, the prisoner's sister, was examined. She used to knit the stockings that her brother wore. The stockings produced were not her work. On the Friday in question (the day of the murder) Hugh went to his school in the morning as usual; she did not see him when he returned at night. Isabella Kerr, cousin of the accused, stated that on Friday some four weeks before the body was found she met Hugh near the loch. "You need not be telling that you saw me," said he, as they parted. He went towards Drumbeg.

Then followed a body of evidence respecting the state of the pannel's pecuniary resources before and after

Friday, 18th March 1830. It was proved that he had been critically in debt, and that within a week of that date he was attempting to borrow trifling sums; immediately after it he was flush of money, changing £5 notes, and buying for cash whisky and new clothes. One young lady, who saw Hugh at the loch when the body was found, noticed that he was wearing a new suit, and in the course of conversation, having doubtless had experience of his methods, she remarked with considerable shrewdness, "It will be somebody's loss." He paid off all his debts, bought a gun for 32s., and treated his acquaintances with a liberal hand. It was observed that he made all payments out of a red pocket-book, such as the pedlar was proved to have used. It was further proved that he had been absent from school on that Friday, and one of the boys saw the pocket-book in his hands on the following day. His explanations of how he obtained the money were denied on oath by the persons concerned.

Midnight had long since struck, and the candles were burning dimly in the crowded Court-room, when the prosecutor called his last witness—Kenneth the Dreamer —who now told his weird tale with fine effect, to which the lateness of the hour, the long strain of the proceedings, and the sympathetic beliefs of his Highland audience all powerfully conduced. He stuck to his supernatural story, and denied any human knowledge of the hiding of the pedlar's goods: "He had never been told that the articles belonging to the pedlar had been put into a hole, and he knew nothing whatever of them but from the dream." The Crown case closed with the reading of the prisoner's three declarations, of which we are told no more than that the statements they contained were as to many particulars absurd and contradictory in themselves, and on other points in direct conflict with the evidence. No witnesses were called for the defence. The addresses of counsel to the jury are not reported. We are only informed that the Advocate-Deputy's speech occupied two hours, that of Mr. Neaves nearly as long. The first is described as masterly, the second as equally eloquent—counsel's line being that the case was one of mere suspicion, and that there was no such absolute proof of guilt as would entitle the jury to convict. Lord Moncrieff in his charge emphasised the

importance of circumstantial evidence: "Cases of this occult and secret nature were often proved more satisfactorily by the evidence of circumstances than by the direct testimony of those who might have seen the deed done, for the testimony of circumstances brought conviction to the mind, while a more direct proof might possibly be the result of perjury." The *corpus delicti* seemed to him to be established beyond all doubt, and the only question was whether the crime had been committed by the pannel. His Lordship then reviewed the evidence, laying stress on the facts that Grant was proved to have been in the accused's company on 18th March, the day before he disappeared, that the stockings which he got that day were traced to the prisoner's hands (feet would perhaps be preferred by purists), and that on or about 19th March the pannel passed from poverty into the possession of money for which he could not account. There was also his suspicious behaviour on various occasions, as well as the many falsehoods and contradictions in his judicial declarations. At the conclusion of the charge the jury retired, and after an absence of a quarter of an hour returned by their chancellor, Colonel Rose of Castlehill, a unanimous vrdict of guilty. Hugh, with a confidence by no means uncommon in his situation, had counted, it appears, on an acquittal. He at once started to his feet and exclaimed, "The Lord Almighty knows that I am innocent. I didn't think any one in this country would be condemned on mere opinion." Lord Medwyn, in proposing the sentence, said the conviction and verdict were founded on the clearest evidence, and Lord Moncrieff, assuming the black cap, sentenced the prisoner to be executed at Inverness on 24th October, between the hours of two and four afternoon, and his body to be given to the Professor of Anatomy in Edinburgh for dissection. So Hugh's foreboding at the exhumation of his victim was justified in the event. The Court rose at nine o'clock, the sederunt having occupied twenty-four consecutive hours.

No sooner had the prisoner returned to his cell than the Rev. Mr. Clark, his ghostly counsellor, wrought so powerfully upon his conscience that Hugh under the seal of secrecy made a full confession of his guilt. The ice thus broken, the minister urged him to make public atonement,

and in the end the Sheriff was called in, and the confession repeated in his presence. Upon the facts so disclosed by Hugh I have already drawn in telling his story; the circumstances of the murder, however, remain to be told. Having determined to slay and rob the travelling merchant, Hugh, on on Thursday, 18th March, was on the watch for his prey on the road between Drumbeg and Nedd. Fate sent the pedlar thither; Hugh made up to him, and accompanied him to Widow Mackay's house, where the stockings were bought. Before they parted Hugh arranged that they should meet again next day, when he would take the pedlar to Lynmeanach and there buy the whole contents of his pack. The pedlar promised not to mention the matter to anyone. Next morning Hugh rose betimes, and, amazing as it is to read, he knelt down in the barn and prayed for God's blessing on his undertaking! "*With unconscious tact,*" says his biographer, "he avoided making any allusion to the intended murder." The italics are the writer's. He then arose, and looking about for a suitable weapon chose a large wedge-shaped mason's hammer, the handle of which he shortened for convenience of carriage. After the family breakfast, the better to conceal the weapon he put on his father's greatcoat, and took the road for Nedd. The appointment was for noon, so Hugh had some hours to wait. These, the day being inclement, he spent in a cave awaiting his victim and reviewing his spiritual state, which, had space so served, it were curious to consider. Presently the pedlar apeared; Hugh joined him, and they walked towards Nedd. Passing a cemetery the pedlar sat down to rest awhile—upon a grave. On resuming their journey they struck off across country towards Lynmeanach, Hugh sometimes carrying the pack. Several times did the assassin essay to strike the fatal blow, but he was obsessed by a fear that someone might be watching him from the hills. What followed is best described in his own words:

"At length we got near Loch Tor-na-Eigin: I was going first. I suddenly turned round, and with a violent blow under the ear felled him to the ground. He lay sprawling in great agony, but never spoke. I took the money out of his warm

pocket, and put it into mine. There was about £9 in all. I gave him two or three violent blows, and dragged the body into the loch, as far as I could with safety to myself. The body would not stay down, and I got a large stone and placed it on the chest. Even then life was scarcely gone, for the air kept bubbling up from the mouth. It was evening, but not very dark. I then threw the hammer into the loch, and returned and rifled the pack. I took the most portable things, and sunk the heavy goods in a moss-loch further into the moor. After taking the money from the pocket-book, I buried it on the edge of a bank near where the body was thrown."

Every day as he came and went between his home and school Hugh had to pass the loch in the depths of which slept the secret of his crime. As spring advanced the waters sensibly receded, until at length he could see the body where it lay upon the moss beneath the bank, but he feared to do anything further in case he should be detected in the act. The contents of the pack were, as I have said, twice hidden before they were found. The pocket-book was not concealed till later.

As a modest student of criminology I am often amazed at the sudden development in the most abandoned persons of a high moral tone and fine religious feeling so soon as the world, the flesh, and the devil are definitely done with. The godly end of the malefactor is almost a foregone conclusion, and to this rule Hugh Macleod was no exception. His leters, written after conviction, to parents, friends, and jailer, are models of propriety, and reflect the utmost credit on the Rev. Mr. Clark's skill in rapid conversion. That gentleman seems rather to have been carried away by his success, for we read in an account of the case in the *Quarterly Review* (September 1851):— "On the Sunday night preceding the execution several ministers entered upon religious exercises with the prisoner. Some refreshments being introduced, *they requested him to ask a blessing,* and he did so, holding forth for half an hour with a force, fluency, and correctness which delighted the company." The scene recalls Lady Warriston's last supper in the Tolbooth of Edinburgh, but that took place in 1600, this in 1831.

Monday, 24th October, was a great day for Inverness. The place of execution, at the east end of the town, to the

sea-side, was named significantly Longman's Grave. "The procession was a most impressive sight. In the centre walked Macleod clad in the grim costume then considered suitable for the occasion. This consisted of a long black robe, which covered the figure from the neck to the ground, and a white nightcap for the head. There was a halter round his neck, the end of which was carried behind by the hangman. At Macleod's right side walked the Rev. Mr. Clark and Mr E. Paterson, schoolmaster, and at his left side the Rev. Mr. Kennedy and Mr. Mackenzie, shoemaker. The magistrates of the burgh followed, walking in procession, and the party was guarded by a number of special constables. A company of the Inverness-shire Militia was also present as a special escort. Around and behind the execution party came a great crowd of people, numbering not less than seven or eight thousand, who had assembled, in spite of unfavourable weather, to be present at the execution." It is a pity that the day was wet. From the scaffold the prisoner delivered an address of which the report occupies two closely-printed octavo pages. He exhorted his hearers to abstain from whisky and cards—"If I were to live for a hundred years never would I put a glass to my head, never would I hold a card in my hand"; also to eschew the company of strange women—"If I were to live a hundred years I would not open my mouth to one of them." The grapes had lost their savour. Finally, he declared Kenneth Fraser entirely innocent of any knowledge of the crime. And so Hugh Macleod went to his last account, and his coffin, as was foretold, met him within a year. That night the minister preached an impressive sermon, in which he assured his congregation of the deceased's salvation "as unhesitatingly as if he had wielded the keys of St. Peter."

It would appear from Hugh's dying declaration that some suspicion of complicity popularly attached to Kenneth, though it was proved at the trial that he had been at his work as usual every day throughout the week in which the murder was committed. How, then, came the Dreamer to dream as he did? He admitted that in the beginning of April 1830 he and Macleod went about drinking together for a day or two, Hugh paying for the liquor out of a red pocket-book with money which he

explained to be his official salary, though he didn't wish the fact to go further. It is highly probable that the lads being under drink taken, something was let drop by Hugh which, working in Kenneth's mind produced the vision. "The phantasms of sleep," says Sir Thomas Browne, "do commonly walk in the great road of natural and animal dreams, wherein the thoughts or actions of the day are acted over and echoed in the night." In this case the revelation, besides being unconscionably overdue, was, as we have seen, to a certain extent fallacious, and would perhaps have been classed by that philosopher in the category of dreams out of the Ivory Gate, and visions before midnight.

AULD AUCHINDRAYNE.

'Twixt Wigtoune and the town of Aire,
And laigh down by the Cruves of Cree,
You shall not get a lodging there,
Except ye court a Kennedy!

—Old Carrick Rhyme.

If imitation be indeed a form of flattery, the fact that the reign of James the Sixth of Scotland was singularly rich in rascals may be accounted an involuntary tribute rendered by his subjects to the genius of their unpalatable prince. Among the flowers of evil that flourished beneath his beneficent sway one ill weed yet blooms eminent in Time's garden—John Mure of Auchindrayne. A typical malefactor of his day, owning no kinship with the introspective, nerve-ridden criminal of later times—such, for instance, as Dostoevsky's metaphysical murderer in *Crime and Punishment*—the Laird of Auchindrayne was a scoundrel of the old school, unhampered either by conscience or by the laws of man, and bloody, bold, and resolute enough to satisfy the standard of the Weird Sisters. A Richard the Third in private life, is Sir Walter's word of him, and the comparison does no discredit to the memory of that capable monarch.

The social habits of the period were peculiarly adapted to the exercise of his talents; it was the era of the Deadly Feud, chief ornament of the clan system, and prosecuted throughout the land with due *perfervidum ingenium Scotorum,* as our criminal records show. "Fifty years of an open Bible, and of the Truth constantly preached," remarks Mr. Lang in his *History,* "seems in no way to have mollified the ferocity of the Scottish people, but rather, if anything, to have increased their bloodthirsty dispositions." For centuries men had fought bitterly and uselessly died at the call of some ancient jealousy or ancestral spite, and though the original wrong might long have been forgotten, each new generation as eagerly shed its blood in the hereditary fray. The deeds of Auchin-

drayne, however, were not of this romantic cast; prompted by ambition and the lust of power, his craftily contrived crimes were designed with a single eye to his own advantage, and only from personal motives did he participate in the feuds of others. The elaborate chain of stratagems by which he sought to compass his ends, to destroy the evidence of his misdeeds, and to escape their so richly merited reward, are remarkable even in the picturesque pages of the history of Scottish crime. The name Auchindrayne signifies the Field of Thorns, a title appropriate enough for one who, walking throughout the eighty years of his pilgrimage in the way of transgressors, found a gibbet at the journey's end.

Material for a biography of this old-time miscreant is furnished by the indefatigable Pitcairn, who in his *Criminal Trials* has not only included the original record of the judicial proceedings of which Auchindrayne was the occasion, together with relative historical documents of much value, but also has edited a contemporary MS. *Historie of the Kennedyis,* with notes and illustrations bearing on the case. Pitcairn thinks from internal evidence that this family chronicle may have been the work of Auchindrayne himself, written in the Tolbooth during the long imprisonment preceding his trial. The strange circumstances of the affair appealed to Scott, but, unfortunately, instead of weaving them into a tale for the entertainment of generations, he embalmed them in a rather solid blank-verse tragedy, where, one suspects, their rest is but rarely broken. Mr. Crockett's treatment of the subject in *The Grey Man* is sufficiently lurid.

Neither the habitual lawlessness of the Highlands nor the chronic turbulence of the Borders affords a better example of the social conditions than certain doings in the godly shire of Ayr, which had profited by the ministrations of the martyr Wishart, and had witnessed the famous disputation between John Knox and the Abbot of Crossraguel. Within the Bailiary of Carrick, that stronghold of the Kennedys, the principal source of strife was an old feud between the Earls of Cassillis and the Lairds of Bargany, prosecuted by their respective adherents with much loyalty and spirit. Gilbert, the fourth Earl, known as The King of Carrick, from the unlimited power which

he wielded over the luckless subjects of his heritable jurisdiction, was, according to the *Historie,* "ane werry greidy manne, and cairitt nocht how he gatt land, sa that he culd cum be the samin." In pursuance of this policy Earl Gilbert, having cast covetous eyes upon the rich Abbacy of Glenluce, prevailed upon a monk, who could counterfeit the late Abbot's handwriting, to forge the necessary conveyances in his favour, and "feiring that the Monk wald rewill itt," he employed a person to "stik" him. In order to obviate any future trouble in the matter he then caused the murderer to be accused of theft, and having seen him safely hanged for that offence, was able to possess the lands of Glenluce in peace. This method of "makin' sikker" later commended itself to the mind of Auchindrayne, as we shall see in the sequel.

The Earl next turned his attention to the Abbacy of Crossraguel. His uncle, Abbot Quentin Kennedy, of the Knox controversy, "at the alteratioune of the religioun" gave Gilbert a feu of the Abbey lands. This, however, was not confirmed by the Crown, and to the Earl's high indignation the Abbacy was bestowed upon one Allan Stewart, whose wife was a sister of Kennedy of Bargany. On 29th August 1570 the new Abbot, being within the Wood of Crossraguel, as he tells us, "upon his leasome [lawful] erandis and business," was surprised by the Earl, with a party of sixteen armed retainers, who invited him to discuss the situation at his castle of Dunure. The Abbot, perceiving that no refusal would be taken, accepted. At Dunure a warm welcome awaited him. Having refused to sign a feu charter of the lands in the Earl's favour, he was placed in a chamber ominously known as the Black Vault, where he was stripped, bound to a bench, and placed before "ane gritt fyr," which "extreymly brunt him, that he was ever thairefter onabill of his leggis." This treatment so far overcame his objections that he signed the deed, "alsweill as ane half-rosted hand culd do it." The Earl then departed, leaving his unhappy guest a prisoner in Dunure. The Laird of Bargany, after vainly invoking the aid of justice on behalf of his outraged kinsmen, took the law into his own hands. With his "haill forse" he invested the castle, drove out the garrison, rescued the Abbot, and took him, "brunt as he wes," home to Ayr.

The dispute was then, quaintly enough, referred to arbitration, Mr. David Lindsay, the well-known minister of Leith, being oversman, by whose good offices the parties were "all agreyitt," the Earl retained the lands and binding himself to pay the Abbot an annuity, "quhilk contentit him all his dayis." This episode of the Abbot's Roasting, as it was termed at the time, is highly expressive of the condition of the country.

In 1576 Earl Gilbert's horse fell with him at "ane litill stane brig owr ane burne" as he rode to Glasgow, and hurt him "werry evill," so that he died of his injuries, leaving a young son, John, who succeeded him as fifth Lord Cassillis. There was great competition for the office of tutor (guardian) to the minor Earl between my Lord Glamis, the Chancellor, and Sir Thomas Kennedy of Colzean, the late Earl's brother, who had married the divorced wife of the notorious Logan of Restalrig; but the Chancellor was slain "with ane schott quhilk wes thocht to heff cumit of the Laird of Bargany's stair," and Colzean secured the appointment. Bargany and the Tutor continued in amity until they fell out over certain lands belonging to a lady called "Blak Bessie Kennedy," who was aunt to both. The chief supporter of Bargany's faction was John Mure of Auchindrayne, later described by the Lord Advocate as "a gentilman of wourschipfull discent, succeiding to that inheritance which his predecessouris in bloude and name had possessed almost foure hundred yeires." His wife was a daughter of Bargany, who, but for the Cassillis family, would have been the biggest man in the district, and Auchendrayne was moved by "the strenth of his freindchip" no less than by "the presumptioun of his hairt" to espouse his father-in-law's quarrel. He had formerly been in the other interest, having received grants of land from the Earl for fealty and service, together with the Bailiary of Carrick, conferred upon him by the young Lord when going abroad upon his travels, but he was afterwards deprived of this lucrative and important office at the instance of the Tutor. So Auchindrayne changed sides; he was not the man to overlook an injury, and from thenceforth, like Queen Mary, he studied revenge.

On New Year's day, 1597, Colzean supped with Sir

Thomas Nisbet at his house in Maypole. At ten o'clock that night, as he was going home unattended to his lodging in the town, he was beset by Auchindrayne, Kennedy of Dunduff, and nine or ten "weill-chosen complices" of the Bargany faction, who lay in wait for him in a narrow alley of the garden. By reason of "the mirknes of the nycht" the ambush failed; Colzean escaped scathless, though some ten pistol-shots were fired at him. The assassins, with drawn swords, pursued him through the streets, but he eluded them in the darkness, and the town being raised, they were forced in their turn to flee. Colzean "persewit" his would-be murderers before the Council; Dunduff submitted and was warded in Edinburgh Castle, but Auchindrayne, defying the law, was put to the horn. Colzean, however, as some compensation for his wrongs, sacked the place of Auchindrayne, destroyed the plenishing, and "wrakkit" the grounds; "also," says Auchindrayne, "they maid mony settis to have gotten himselff, bit God preservitt him from thair tirranye." The house Auchindrayne occupied a well-sheltered site near the Banks of Doon, east of Brown Carrick Hill. No vestige of the building now remains, but Abercrummie, in his account of Carrick, describes it as "an high tower, with laigh buildings, surrounded with good orchards and gardens, parks, and good corn-fields."

For some years the feud between the Earl's party and that of Bargany was agreeably sustained by means of ambuscades with a view to murder, varied by intervals of uneasy reconciliation, an instance of which falls here to be noted. The friends of Auchindrayne and of Colzean patched up a truce between them on the footing that James Mure, younger of Auchindrayne, his son and heir, should marry Helen Kennedy, the Tutor's daughter; that four thousand merks, the damsel's tocher, should be provided by Bargany, who was to be discharged of certain sums due by him to Colzean in connection with Black Bessie's lands; "and all byganes to be past by amang thame." The marriage was completed, Auchindrayne was relaxed from the horn, Dunduff and Colzean "maid freindis," and all parties shook hands on the bargain—"bot not with their hairttis," as is significently recorded. So maters continued until the death of old Bargany, when

Gilbert Kennedy, his son, reigned in his stead. This inexperienced youth was, we are told, seduced by Auchindrayne to believe that the time was proper for raising his house from the second to the first place in the shire by the overthrow of that of Cassillis, and as a result of his brother-in-law's evil counsel, young Bargany engaged in divers plots against the Earl's life. On one occasion my lord, being the guest of a supposed friend, discovered an inhospitable design to slay him in the night, but managed to make good his escape by a back door; on another, his enemies lay in wait for him in a kiln, the walls of which they had loopholed for musketry, but the Earl, apprised of their purpose, passed by another way.

On 6th December 1601 Bargany, with his armed retainers, on his way to Ayr rode ostentatiously past the Earl's gates without calling at the castle of his chief according to clan etiquette. This was apparently regarded as a graver offence than attempted assassination. The Earl, "resolving rather to die nor digest that publict indignitie," assembled his forces and encountered those of Bargany at Lady Cross, near Maybole, "whan foure or fyve hundreth men entring in fight," the Earl routed his assailants. Bargany received a mortal lance wound in the throat from a fellow named John Dick, of whom we shall hear again, and Auchindrayne got "ane verie dangerous schot in the theigh." With reference to these doings, both the Countess of Cassillis and the relict of the late Bargany made personal complaint to King James. The Countess succeeded in obtaining His Majesty's favour for her husband—ten thousand merks given to the Treasurer, we are informed, "did the turne." Lady Bargany was not so fortunate;; she was compelled to buy the ward of her son at a price of thirteen thousand merks. Peacemaking in James's hands was a profitable virtue. Lady Cassillis had been the widow of Chancellor Maitland, and was much older than her lord. We read that "she was past bairnis beiring" when in 1597 she wedded the Earl, who was then but twenty-three. This fact caused much amusement at the refined Court of the Scottish Solomon, where the marriage was "mokit" and sonnets were written in contempt of the parties, "and speciallie His Majesty tuik his pastyme of that sportt."

The frustration of his schemes but increased Auchindrayne's malice; he ceased not to stir up Thomas Kennedy of Drummurchie, old Bargany's second son, to assist him "in daylie ambushes for the Erle's death," which, however, owing to the power and circumspection of that nobleman, continued ineffective. Perceiving that the Earl was not to be caught napping, Auchindrayne then formed a plot for the murder of his uncle, Sir Thomas Kenedy of Colzean, the Tutor of Cassillis, who, related as he was to both parties—being young Mure's father-in-law—had honourably abstained from taking sides in the quarrel. It happened that on 10th May 1608 Colzean, having occasion to ride to Edinburgh to consult his lawyer upon some "wechtie bussines," sent his servant, Lancelot Kennedy, with a message to Auchindrayne advising him of his purpose, asking whether he could do anything for him in Edinburgh, and, if so, appointing to meet him next morning by the way "at the Duppil, a littill be-west the burgh of Aire." Lancelot missed Auchindrayne at Maybole where he had expected to find him. The local schoolmaster, Robert Mure, was a kinsman of the Laird, so Lancelot, being apparently an indifferent penman, got him to write a letter embodying the message, which Mure forthwith dispatched to the place of Auchindrayne by one of his pupils named William Dalrymple. At the house of Auchindrayne the boy found the Laird in company with his cousin, Walter Mure of Cloncaird, "ane deidlie ennemie" of Lord Cassillis, and duly delivered the letter. Here was Auchindrayne's chance to strike safely and surely at last. With characteristic craft he refolded the letter and gave it back to the boy, bidding him return with it to Maybole and tell his schoolmaster and Colzean's man that he had failed to deliver it, as the Laird was from home. Master William dismissed, Auchindrayne then pointed out to Cloncaird, a kindred spirit, that fate had delivered his enemy into their hands; such an opportunity to avenge Bargany's slaughter "wes nocht to be oneslipped." He then sent for Drummurchie, Bargany's brother, and persuaded the two rash young men to undertake the deed. Next day, 11th May, Sir Thomas Kennedy, riding "ane small haiknay" and accompanied only by his servant Lancelot, set out for Edinburgh from his

home, "ane proper house in the Cove, with werry brave yardis"—now superseded by Colzean Castle. On his way he "lichtit" for a space at Greenan Castle to call on his kinsman, Kennedy of Baltersan. Leaving Greenan, he crossed the water of Ayr at the Holmstone ford, to avoid passing through the town, then favourable to the Bargany faction, and so came to St. Leonard's Chapel, which stood at the south-west corner of the present race-course, about half a mile from Ayr. The surrounding ground was very sandy and irregular, thus affording excellent cover for persons murderously disposed. Near the spot where he had trysted with his treacherous false friend the unsuspecting traveller was beset by Cloncaird, Drummurchie and three accomplices, who, hiding among the sand hills, awaited his approach. With pistols and swords their deadly work was speedily performed, and having stripped the body of a purse containing a thousand merks in gold, cut the gold buttons from the dead man's doublet, and secured his rings and other jewellery, the murderers made off. What part, if any, Lancelot played in the scene is not recorded; perhaps he ran away; at least he escaped the assassins, for he afterwards brought the body of his late master to Greenan. There a horse-litter was procured to take it back to Maybole, where it was buried in the little aisle of the College Kirk.

Colzean's slaughter caused much indignation in the shire; there was great dule made for him, "for indeid," says Auchindrayne, in gentlemanly toleration of the dead, "he was ane werry potenteous man, and werry wyse." Lady Colzean, whose scent for intrigue was doubtless quickened by past experience of her former lord, Restalrig, at once denounced Auchindrayne as the instigator of her husband's murder. Cloncaird and Drummurchie fled, and were duly outlawed; but Auchindrayne, being summoned to underlie the law, "did bouldlie compeir." The private prosecutors, however, for lack of sufficient evidence to obtain a conviction, were afraid to press on the trial, lest he should be acquitted and so "perpetuallie freed of that cryme." Secure in their difficulty, which, as we shall shortly see, was of his own contriving, Auchindrayne insisted on being brought to trial, but was dismissed from the Bar, no person appearing against him.

Thereupon, "bragging exceidingly of his innocencie, whairof he had gevin pruif," he offered himself "to the tryell of combat to the death" with any of Colzean's kinsmen or friends who should openly challenge him for the murder.

Now the young Laird of Colzean had found out about the boy Dalrymple and the undelivered letter, and, suspecting what had happened, "had begun to try him verie rudelie" as to the true facts. Auchindrayne, learning that his pursuers were getting "warm," had promptly kidnapped the boy and imprisoned him in his own house, "sumtymes within the barne and sumtymes in the turnepyke-heid," for nearly three months, thus depriving the prosecutors of their only material witenss. The presence of the boy in the house was concealed from the other inmates, a confidential man being appointed to sleep with him and attend to his meals; but the servants began to gossip, and Auchindrayne, fearing that the whereabouts of the missing witness would be discovered, sent Dalrymple, in charge of two trusty agents, to the Island of Arran, to the care of a kinsman, Sir Robert Montgomery of Skelmorlie, at his castle of Loch Ranza. There, under the false name and designation of William Mure, servant to Drummurchie, the boy was kept prisoner "ane long space," but wearying to remain in "ane barbarous cuntrie, amange rude peopill, who nothing regairdit him, being ane strenger to thame"—the exclusive and independent character of the islanders was thus early manifested—Master William at length affected this escape from that inhospitable isle, and reaching the mainland, turned up one day in his native village of Monkton. No sooner did Auchindrayne hear of the wanderer's return than he had him seized again and brought to his own house, where the boy occupied, perforce, his old quarters in the turnpike-head. Some remoter refuge than Loch Ranza had to be found for him, so Auchindrayne made a "paction" with his cousin, James Mure of Fleet, to take the lad to Leith for transportation to the Low Countries, as a soldier in Lord Buccleuch's regiment, serving under the Prince of Orange, in the hope that he might there end his life "be suche accidentis as daylie befallis to sodgeouris." In any case, he would be outwith the jurisdiction of the High Court of

Justiciary, and Auchindrayne felt fairly confident that he had seen the last of Master William.

Meanwhile the Earl of Cassillis, finding the arm of the law thus shortened against the enemy of his house, determined to avenge by more summary methods his uncle's murder. To this end he became reconciled to his brother, the Master of Cassillis, who hitherto had been a partisan of Auchindrayne, and as such took part, from motives of self-interest, in that gentleman's unsuccessful attempts to facilitate his own succession to the title. The arrangement was embodied in a formal deed, so curiously illustrative of the morals and manners of the time that I here transcribe it—tempering for the gentle reader the archaic orthography:—

> We, John, Earl of Cassillis, Lord Kennedy, etc., Binds and Obliges us, that howsoon our brother, Hew Kennedy, of Brunstoun, with his complices, takes the Laird of Auchindrayne's life, we shall make good and thankful payment to him and them of the sum of 1200 merks yearly, together with corn to six horses, aye and until we receive them in household with ourself: Beginning the first payment immediately after their committing of the said deed: Attour [Moreover], howsoon we receive them in household, we shall pay to the two serving gentlemen the fees yearly as our own household servants: And hereto we Oblige us upon our honour. Subscribed with our own hand at Maybole, the 3rd day of September, 1602.
>
> JOHN, EARL OF CASSILLIS.

This friendly move, as Mr. Wegg might have called it, was designed by the astute nobleman to serve a double purpose—the removal of his adversary, or of his too presumptive heir; in either event the Earl stood to gain by the transaction. "The cuntry thocht that he [the Master] wald not be eirnist in that cause, for the auld luiff betwixt him and Auchindrayne," but the public opinion was not shared by the Laird, who probably knew his man better; so, as the house of Auchindrayne was environed by woods which were favourable to a besieging force, he found it expedient to retire for a season, like Borrow in the Peninsula, and withdrew to Newark Castle, about a mile distant, to await developments. The Master, with sixteen horse, lay in ambush for his former friend by the way; but

the Laird was an older hand at the game than he. Lady Auchindrayne, being sent in advance, discovered the ambuscade, and returning, advised her lord, who raised some of his friends in Ayr, fell upon the Master's company, and forced them "to reteir with schame." So the feud went on, the Cassillis party "daily persewand" Auchindrayne, but without success—

Never the time and the place
And the loved one all together!

The cause of that veteran intriguer was greatly fortified by the assistance of Drummurchie and Cloncaird, Colzean's murderers, who returned from voluntary exile to take part in the dispute. They and Auchindrayne, with nine horse and twenty-four hackbutters, surprised the Countess of Cassillis and the Master as they rode to Galloway with fifteen retainers. The odds being so heavy against them, the Cassillis party, unable to offer battle, fled to the neighbouring house of Auchinsoull, where they prepared to defend themselves; but their pursuers set fire to the roof, compelling them to come out, and all but one man were "tuik." The exception was that John Dick who had slain young Bargany in battle. He galloped off, concealed by the clouds of smoke blowing low and dense from the burning building, and rode to London, where he told the Earl what had happened. My lord informed the King of the affair, which put His Majesty "in sic ane readge" that he at once granted the necessary commission against the law-breakers. Their prisoners were presently released, Drummurchie fled to France, and Cloncaird, who seems to have been unduly sensitive for an assassin, being left behind , took his friend's defection so much to heart "that he deitt theairoff." Auchindrayne alone was, as usual, none the worse for the adventure. His next move, however, resulted in a temporary check. The Earl, having obtained the spoils of his dead enemy, had occupied the house of Cloncaird; Auchindrayne, "awaiting ane tyme," caused the keepers to be invited out to dinner, and in their absence took possession of the house "bot [without] ony impediment." This apparently was the last straw. Lord Cassillis summoned Auchindrayne before the Council; and once there, the Earl undertook to prove him

art and part of the murder of Colzean. So the Council had him warded in Edinburgh Castle, but after twenty-eight weeks' confinement he was liberated on finding caution to appear when charged. The lack of evidence was still his salvation.

And now, just when the Laird deemed himself finally free from that old danger, in whose shadow he had walked so long, "the eye of God's justice, which never sleeps," brought young Dalrymple back to Ayr. In Flanders, we are told, he had served several years in the wars, where he received divers wounds and sustained many other miseries; these aroused a natural desire to revisit the place of his nativity, and in September 1607 Master William reappeared in Carrick. Probably his misfortunes in the Low Countries had begotten hardihood, for, after spending a night or two with his mother, Dalrymple "did address himself to Auchindrayne," of whom his former experience should have made him shy, and indeed he appears to have had a purpose to blackmail that worthy with such a subject, a dangerous game. The proposed victim, however, seemed willing to discuss terms. It was arranged that, pending the negotiations, Dalrymple, under the name of Montgomery, should lodge with one James Bannatyne, a tenant and ally of the Laird, at his house of Chapeldonald, situated on the seashore, about a mile and a half from Girvan. As the lad was being escorted to his host's by James Cunningham, the Laird's confidential servant, whom should they encounter by the way but the two Mures, father and son, who chanced to be riding the same road! The four kept company for some eight miles, conversing agreeably "of the estait of the Low Countries and sindrie other materis," till, coming together to the house of Chapeldonald, they parted for the time.

Occasion had been taken by Auchindrayne to make with his tenant a singular tryst, to wit, that the following night, being Saturday, Bannatyne should bring "to the Sandis of Girvan the said Williame about ten hours at evin"—a strange place and time for the transaction of business. Accordingly, when Bannatyne and his young charge reached the appointed spot they found Auchindrayne and his son, James Mure, awaiting them. The unusual character of the meeting was enhanced by the fact

that young Mure brought with him a shovel and a spade. He " demanded whair the boy wes? "—for Bannatyne and Dalrymple " rode double," which, in addition to the darkness, would make it difficult to see the lad—and William, having " lichted " from behind his companion, talked for a space with Mure. The Laird meanwhile spoke apart with Bannatyne, informing him of the identity of Dalrymple with the boy who had brought the letter from Colzean the day before the murder; that he had used every means to keep him out of the way, in spite of which he still returned; and that he was now determined for his own safety " to mak quyte of him, and to red Dalrumpill furthe of this lyfe." Bannatyne thought " it wes ane cruel pourpose to murthour the poure innocent youth," and suggested that he might be sent out of the country to Drummurchie's care. Auchindrayne seemed willing to reconsider his decision, and turned to consult his son, who at that instant, as by a preconcerted plan, attacked the hapless lad, flung him to the ground, knelt upon his arms, and compressed his throat and mouth, suffocating him, the villainous old father helping the while to hold down his writhing victim until life was extinct. Thus these landed gentlemen anticipated by some two centuries the horrid ritual of Burke and Hare. Bannatyne, who by his own account had looked on and done nothing, was then directed by Auchindrayne to assist young Mure in digging a grave in the sands below high-water-mark with the implements which his forethough had provided; but the tide was flowing, and though they dug several holes they could not get the corpse covered, by reason of the filling up of the holes with sand and water before they could make one sufficiently deep. Realising " efter lang travell " the futility of their efforts, young Mure and Bannatyne, taking up the body, waded out as far as they could and cast it into the sea, in the hope that by an off-shore wind it would be carried out of the Firth and so disappear for ever. Next morning the murderers, revisiting the scene of their crime, were disappointed to find the corpse " in the verie place whar they left it; " and as it was the Sabbath day, and in any case nothing further could be done till nightfall, they passed the time in " marvelous anxietie." No sooner was it sufficiently dark than they hastened to the spot, but the

body had then disappeared, the wind having carried it out to sea according to the original design.

On the following Friday, a week after the murder, the corpse of William Dalrymple was washed up by the tide near the place of his death. It was found by some country folk, and being deemed the remains of a drowned sailor lad, was buried in Girvan churchyard. But a rumour of Dalrymple's disappearance spread quickly abroad. Lord Cassillis gave orders that the body be raised and exposed in the church for identification; proclamation of the fact was made by the local clergy; and presently the lad's mother and sister recognised it as that of their missing relative. By "the constant and universal bruit and opinion of the haill peopill of the countrie" Dalrymple's death was laid at Auchindrayne's door, and in accordance with the well-known ordeal commonly applied to suspected murderers, by touching the corpse to see whether or not it would bleed, the Mures were expected to submit themselves to that popular test. They declined to do so, on the ground that their enemy the Earl would be present, which is all that the record tells us of the matter. But some seventy years later, upon the trial of Mitchell for the attempted murder of Archbishop Sharpe, in the course of the pleadings as to the lawfulness of inflicting torture, the case of the Mures of Auchindrayne was cited with reference to this miraculous proof of guilt: "God in a soveraine and singular way witnessed against it [Dalrymple's murder] from Heaven by His own immediate hand, and proved the deed against him [Mure]!" Everyone in the district being sumomned to touch the corpse, as the custom was in such cases, and all compearing except the Laird and his son, who were the murderers, "and his dwelling-house and familie being neire to the place, ane yowng chyld of his, Marie Mure be name, seeing the people, went to the place; and when she drew neire, the corpes (to the admiration of all the people) did spring owt upon her in abundance of blood!" Auchindrayne was then seventy-six, so Marie was probably his grandchild. Sir Walter Scott, who was interested in the subject, observes of the incident: "I know of no case, save that of Auchindrayne, in which the phenomenen was supposed to be extended to the approach of the innocent kindred."

The strange case of Philip Stanfield in 1688 furnishes a beter authenticated instance of the application of the *Bahr-recht* or Law of the Bier, and is the last Scots murder trial in which such evidence was admitted.

Now the friends of Auchindrayne, who had winked at Colzean's slaughter and his repeated attempts to assassinate the Earl, held that this murder of an obscure boy was in bad taste, and they plainly indicated that in so sordid an affair be must look for no countenance from them. It was fitter, said these sticklers for etiquette, that the Mures should kill Hew Kennedy of Garriehorn, a retainer of Lord Cassillis, for divers probable quarrels which they had against him; so might they affront the law "without infamie," and their friends could "do" for them without reproach. Though such scruples appeared childish to Auchindrayne, he was so far willing to humour social prejudice that he and his hopeful son lay in wait for Garriehorn, and "in respect of his being singill [unaccompanied], schott thair pistoles, and used all uther meanes to have killed him." But Garriehorn proved a less easy prey than an unarmed boy; he drove off his cowardly assailants, wounding young Mure so severely in the right hand that he became "lame of it" for the brief remainder of his days. Their purpose, however, was so far achieved that father and son, being denounced rebels both for Dalrymple's murder and the "invading and persewing" of Garriehorn, professed themselves anxious to face their trial for the murder, if the assault were forgiven them. But King James at length realised that the time had come to curb the criminous activities of Auchindrayne; he granted a secret commission to the Earl of Abercorn for his arrest, and presently the Laird was seized, conveyed to Edinburgh, and lodged in the Tolboth. Lord Abercorn was a son of Queen Mary's old adherent, Lord Claud Hamilton.

Auchindrayne's heir, however, escaped capture, and was able to keep in touch with his venerable sire. Cunningham, the servant who brought Dalrymple to Chapeldonald, had already been sent away to Angus under a false name, and, profiting by his parent's precepts, young Mure persuaded Bannatyne, the only witness of the murder, to abscond and flee from justice, bribing him with "ane

lyfrent tak" [lease] of his lands of Chapeldonald. Furnished with money and other necessaries, including "ane boit, meit, and drink," Bannatyne set sail for Ireland, bearing a letter of introduction to the forfeited Drummurchie, who had added his personal grievances to those of that distressful country. During Bannatyne's banishment the rents of Chapeldonald were scrupulously remitted to the exile, the honourable conduct of thieves *inter se* extending, as appears, to murderers. But the wisdom of Auchindrayne, and his experience in the Dalrymple affair, suggested the propriety of removing Bannatyne wholly beyond temptation by the Lord Advocate to appear as a witness against his benefactors. It was therefore arranged that James Pennycuik, one of those bravoes of whom the Laird seems to have kept on hand a constant supply, should, at his earliest convenience, murder Bannatyne, in respect of which undertaking he received Auchindrayne's obligation for "four scoir pund," payable on performance. Further, it was thought expedient that on the demise of Bannatyne his kinsman, Quentin Mure of Auchneill, should be moved by old Auchindrayne to kill Pennycuik in revenge; "and swa Auchneill, knowing no thing of Dalrumpilis murthour, and being not only innocent of Bannatyne's murthour, bot the avenger thairof, he suld be frie of all suspicioun of the fyrst murthouris,'" and a clean sweep would be made of all those who might testify to the Laird's complicated crimes. Having thus arranged matters so far as human foresight could provide, young Mure surrendered to justice, and was consigned to Edinburgh Castle.

Both prisoners were repeatedly examined before the Privy Council without result; they stoutly maintained their innocence and demanded an immediate trial. The Crown authorities were faced with the old difficulty in dealing with these miscreants—lack of proof; but this time King James was determined that they should not slip through his fingers; he ordered young Mure to be "coerced be tortour to discover the trewth." Accordingly those Lords of the Secret Council "to whois secrecie and faith that chairge wes committed," proceeded to carry out the Royal injunction to the best of their ability; but Mure, whatever his shortcomings, was no coward; he bore "the

extremitie of that insufferabill torment" in absolute silence. The knowledge of this fact caused a revulsion of feeling in the prisoner's favour, for, on the popular theory, such constancy and courage could only be sustained by innocence. The friends and kinsmen of the accused clamoured for his relèase; £20,000 (Scots) caution was offered for his compearance when required, and young Mure himself promised the Chancellor that if liberated he would "bring Bannatyne in, aither quick or deid"—the odds being presumably in favour of the latter state. But James held firm; notwithstanding considerable pressure in high quarters and much growling from the multitude, he insisted that Mure should remain a prisoner as guilty of murder, till "God in His justice and appoynted tyme wald manifest the same." This high-handed exercise of the Royal power caused great resentment, and the defence made the most of it at the trial; but James was justified in the event.

Pennycuik proved an incompetent assassin; and Bannatyne, whose conscience had become restive, opened communications with Lord Abercorn, returned to Scotland, and at his Lordship's house of Paisley favoured him with "the rehersall of all that tragedie of Dalrumpill's murthour." Bannatyne did this in the belief that he had a promise of safety for his life, but Lord Abercorn, honourably averse from profiting by the misunderstanding, allowed him ten days' freedom, after which he would be "purswed" with all the rigour of the law. His Lordship, however, enlightened him regarding Auchindrayne's amiable intentions as disclosed in the matter of Pennycuik's mission, and young Mure's handsome offer to bring him in dead or alive, which so affected Bannatyne that he voluntarily surrendered to justice, preferring rather that his own neck be imperilled than by his escape such perfidy should remain unpunished. Haled before the Privy Council, the penitent narrated the facts of the murder. These were taken down by the clerk, and then Auchindrayn was brought from the Tolbooth to be confronted with his accuser. The Laird denied the whole story, and denounced his old tenant as a false witness, bribed by his enemies to effect his ruin. Bannatyne, "prostrat upon his kneis," besought him with tears and in moving terms to

confess his guilt, adding that but for his knowledge thereof, not all the land of the kingdom nor the safety of his own life would have tempted him to testify against the master whom he had so dearly loved and followed in many dangers. Even the official heart of the Lord Advocate (who describes the scene) was touched; but Auchindrayne coolly expressed the hope that God would never permit him to confess so infamous an untruth, "and douted not bot God wald move Bannatyne to beir witnes to his innocencie, and how, be what persones and meanes, he had been seduced falslie to accuse him." The Council, "being broght in admiration of so great obstinacie," thought something might be done with young Mure, so he likewise was confronted with Bannatyne. He proved, however, as insensible to moral pressure as he had been to that of the boots and the thumbikins: with less piety than his parent, but with equal persistence, he denied "be execrabill oathes" the truth of Bannatyne's tale.

The prisoners were sent back to their respective quarters, and the Lord Advocate began to fear that he would never secure a conviction. But his case was unexpectedly strengthened by the interception of a letter, written by Auchindrayne from the Tolbooth to his son in the Castle, which in a fortunate hour fell into the Crown's hands. The text has not been recorded, but it was clearly of a character sufficiently damning to serve the prosecutor's turn. Shown this letter before the Lords of the Council, the author modestly denied its authenticity. With him, as one would expect, the sword was mightier than the pen: Archibald Primrose, clerk to the Council, tells us that "he verrie hardlie could get the samyn red, being sa evill writtin and evill spellit"; but my Lord Dunbar, desiring the prisoner to read it aloud to the Council, "Auld Auchindrayne, at the verrie first sicht of his letter, red the samyn so ryplie and perfytlie as gif he had it perquier (*par cœur*), quhilk no uther man nor the wryter was able to haif done." At the trial the sending of this letter and its interception were proved by one Dormond, who had it from the prisoner's hand; by the Constable of the Castle, who found it upon the messenger; and by the Earl of Mar, who, receiving it from the constable, produced it before the Council.

The forces of the Crown being duly mobilised, at eleven o'clock on 17th July 1611, John Mure, elder of Auchindrayne, James Mure, younger of Auchindrayne, and James Bannatyne, sometime of Chapeldonald, were placed at the Bar, indicted under an Act of 1587, whereby murder of a person "under the trust, credit, assurance, and power of the slayer," was treason, and punishable as such. The trial of the three prisoners upon the one indictment caused much dissatisfaction, popular opinion demanding that Bannatyne should be tried first alone. If, being convicted on his own confession as art and part in the murder and executed therefor, he ratified his confession upon the scaffold, "seilling the same with his bloude," that "might than put thame in sum opinion of Auchindrayne's guiltines, whairof utherwayes thay had never sene any appeirance"! A similar illogical request was made ten years before by the Ministers who offered to believe the King's version of the Gowrie tragedy if Henderson, his chief witness, were hanged, adhering to its truth. The Lords of the Council, however, thought it "more agreabill to reason" that all the accused should be tried together. The Lord President (Sir John Preston of Fenton-barns), the Secretary (Sir Alexander Hay), the Justice-Clerk (Sir John Cockburn of Ormiston), and Lords Midhope, Kilsyth, and Wrightsland, presided; the Lord Advocate (Sir Thomas Hamilton of Byres) represented the Crown as well as the private prosecutors, James Kennedy of Colzean, son of the dead Sir Thomas, and Bessie Dalrymple, mother of the murdered boy. John Russell, Thomas Nicholson, and Joheph Miller, advocates, appeared for the Mures, but Bannatyne intimated that he "suld mak thair [the jury's] burding light, granting in thair presence so muche of the dittay [indictment] as concerned him, albeit he took God to witness that he wes the maist innocent of the thrie." The indictment charged Auchindrayne with the instigation of Colzean's slaughter and with the murder of Dalrymple; young Mure and Bannatyne were included in the latter charge. Various objections taken to the relevancy, *e.g.*, that Colzean, when murdered, was not under power, trust, credit, and assurance of Auchindrayne in terms of the statute, were repelled, the Court holding that, as he had directed and arranged the murder, "thair

wes mair nor sufficient power." In the circumstances of Dalrymple's case the point was obviously unarguable. A jury of fifteen landed proprietors was empannelled, and the Lord Advocate adduced his proof. He produced the Letters of Horning respectively executed against Drummurchie, Cloncaird, and the pannels, for the attempted slaying of Colzean in 1597, for his murder in 1602, and for that of Dalrymple in 1608; and proved by sundry witnesses the receipt by Auchindrayne of Colzean's letter, his foreknowledge of the murder, his imprisonment of Dalrymple and sending him to Arran and to Flanders (the Mures, by the way, denied that they even knew Dalrymple), the bringing of the lad from Chapeldonald to the Sands of Girvan, where he met his death; the "dilligence, craft and subtletie" used by Auchindrayne and his son to escape the consequences of that crime, to wit, the attempted murder of Garriehorn, the absenting of Cunningham and Bannatyne, the arrangements made for the elimination of Bannatyne by Pennycuik, and for his assassin's subsequent removal by Auchneill; and a letter from old Auchindrayne to the Laird of Stair, chief of the Dalrymples, sending a form of bond which he was prepared to grant in favour of the murdered boy's relations if they would abstain from prosecuting him for the crime. "All which are so clear evidences and manifest probations," writes Lord Fountainhall in his abstract of the trial, "as could hardly be expected in so covered and crafty murthers." The Lord Advocate closed his case with the significant announcement that should the jury "happin to unhappelie to forget thame selffis" as to acquit any of the pannels, his Lordship would protest for wilful and manifest error, "and for all payne that of the law can follow thairupone."

The deposition of some thirty witnesses examined for the Crown are regularly cited in the record; but unfortunately not all the industry of Pitcairn could discover the original documents and letters produced in the case, which would have been of exceptional interest and value as illustrative of the period. No evidence was led for the defence, counsel contenting themselves with taking strenuous objection to the admission of Bannatyne's deposition and the damning testimony of Pennycuik. An

attempt to show that the intercepted letter was fabricated by the Crown authorities—a proposition at that period by no means improbable—proved equally unsuccessful. The jury, having adjourned to the Council House of the Tolbooth, elected Sir James Scrymgeour of Dudhope as their Chancellor, and returning into Court, found all the pannels guilty as libelled. By the mouth of Alexander Kennedy, dempster of Court, the three prisoners were sentenced to be taken to the Mercat Cross of the burgh of Edinburgh, and thair, upone ane scaffold, thair heidis to be strukin frome thair bodeyis," and all their lands, goods, and gear to be forfeited to the Crown, " as culpable and convict of the saidis tressonabill crymes." One wonders if Auchindrayne noted the strange coincidence that his final doom was fittingly pronounced by a member of the race of Kennedy.

As in the case of that interesting contemporary criminal Lady Warriston, the time before the execution was occupied in long conference between " sum godlie Bischoppis and Ministeris " and the condemned men, for the purpose of inducing them to confess their guilt. Young Auchindrayne, seeing that the game was up, acknowledged the truth of Bannatyne's declaration; but it was not until the eleventh hour that, by the " godlie travels " of the clergy, " the father wes broght to so frie and sensibill contritioun." On the scaffold both proclaimed " thair godlie resolutioun to mak haist to ressave the eternall joyes whilk thay expected assuredlie." The fair penitent above referred to expressed a similar lively hope; which makes one marvel at what the Scots divines of that day could do with such unpromising material.

Bannatyne received His Majesty's gracious pardon in respect of the part played by him in bringing the offenders to book. This exercise of the Royal mercy was twice blessed; it benefited Bannatyne no less than posterity. So unpopular was the reprieve that the Lord Advocate, inspired, as appears, by Somerset, the reigning favourite, prepared what he calls " Ane Trew Narration " of the circumstances of the case, which throws an instructive light upon the facts. His Lordship complains that sundry " develish peopill " were as venomously inclined to find matter of calumny in His Majesty's most virtuous actions

" as the wesp to suck poyson out of the sweitest and most holesome flouris "—this, too, in despite of a monarch whose reign he describes as the renovation of the golden age, and whose wise judgment he likens to that of King Solomon in the hard case of " the houris child." Probably certain legal doings of three years before, namely, the affair of Sprot, the Eyemouth notary, and the post-mortem proceedings against Logan of Restalrig in connection with the Gowrie business, had caused some lack of public confidence in " the justice of His Majesty's directionis." As regards the present case, however, beyond straining the law in the matter of young Mure's torture and imprisonment, King James seems to have behaved better than usual, and, having no particular axe of his own to grind, was content with the sword of justice.

"ANTIQUE SMITH"

Some men has plenty money and no brains, and some men has plenty brains and no money. Surely men with plenty money and no brains were made for men with plenty brains and no money.

—Aphorism of the Tichborne Claimant.

THERE is something singularly base in the fabrication of personal written relics of the illustrious dead. Duncan is in his grave; treason has done its worst, nothing, says the poet, can touch him further; yet your literary ghoul will violate upon occasion the last silence, and furnish for a pound or two the acceptance of Lady Macbeth's invitation to spend a night at Cawdor. For the acquirer of autographs to whom these are worth merely their market price, the discovery that, through lack of skill or knowledge, his wares include some sample of the forger's art, is sufficiently painful—he suffers in a tender place; but the worshippers of heroes who buys an old letter of a few lines in faded ink, bearing to be written by the object of his homage, is in a harder case. The busy hand that traced, as he believes, those characters upon the frail and perishable page has long since turned to dust. Its works, mayhap, in noble and permanent form survive, and that is much, but this is intimately more; here is some part of the man himself, a peculiar possession and delight. And to foist for gain upon the unwary enthusiast a heartless travesty of his treasure is surely the meanest of despicable deeds. But the forger is doubtless well advised thus to rob the living only at the expense of the dead; should he imitate the handwriting of some butcher or baker in being, his punishment, on detection, will be a very different one from that awarded in respect of such fraudulent traffic in the immortal names of Burns and of Scott. Verily, in his case, a dead lion is better (and safer) prey than a living dog.

On 22nd November 1892 the *Evening Dispatch*, an

Edinburgh newspaper, presented to its readers the first of a series of articles which forms a notable chapter in the history of literary forgeries. In introducing the subject it was remarked that the question then publicly raised was one of national, even international, importance, which had long exercised a section of the literary world, namely, the authenticity of a mass of old MSS., chiefly Burns, Scott, and Jacobite, recently placed with amazing prodigality upon the market. The genuineness of these documents, it was said, had long been a subject of fierce contention among collectors, and the time and opportunity were ripe for tracing them to their source and determining once for all their truth or falsity.

This was the first intimation the general public received of the existence in Edinburgh of a manufactory of spurious autographs on a large scale, but the fact seems to have been well known to experts. Indeed, on reading the contemporary account of the exposure of these elaborate and extensive frauds one is struck by the circumstance that, although many dealers and collectors were aware of the wholesale forgeries and of the thriving trade long driven therein with impunity, but for the enterprise and public spirit of the *Dispatch* the career of the forger might have been indefinitely prolonged. Some of those concerned were doubtless wilfully blind; others having been, as the phrase is, "had," preferred rather to suffer in silence than publish their losses to an unsympathetic world; and another class, who by their attitude delayed the day of reckoning, honestly believed genuine what they had paid for, and struggled against the light as an imputation either on their judgment or good faith. Scotland, too, had been singularly free from a form of crime of which the forged letters of Byron and Shelley, detected in 1852, was in England the last example, and the very effrontery of the fraud helped for a time to disarm suspicion.

It is here proposed briefly to recount the unmasking of the forger as effected by the agency of the *Dispatch*.

On 26th May 1891 there appeared in the *Scotsman* an account of the sale by auction in Edinburgh of certain letters of Burns and other documents, known as the Rillbank Crescent Manuscripts, being the collection of one

Mr. James Mackenzie, F.S.A.(Scot.). Before beginning the sale the auctioneer stated that while some people said they were forgeries and he said they were not, yet his word must not be taken for it; purchasers must judge for themselves. As the result of this depressing exordium the prices realised wer disappointing. Five autograph letters of Burns, including a poem, brought between one and two guineas. A song in his handwriting sold for thirty shillings, a discharge granted and signed by him, thirty-two shillings, and so forth. In the course of the subsequent controversy Mr. Mackenzie stated that the MSS. were perfectly genuine; "that they were not warranted *was for a purpose,* which proved that some who pretended to be judges of such were not so," on the analogy of the new sovereigns offered for 14s. 6d. on London Bridge, of which purchasers were shy—in both cases, it would seem, rather too costly a way of backing one's opinion.

This sale, however, did not exhaust Mr. Mackenzie's collection, for in August following there was printed in the *Cumnock Express,* an Ayrshire newspaper, an unpublished letter of Burns, the property of that gentleman, whom the editor vouched for as an industrious and intelligent collector of MSS. The letter, which was addressed "Mr. John Hill, weaver, Cumnock"—apparently an old friend of the bard—concluded with the curious expression, "Believe me, I did not intend to go beyond anything that was unfriendly (*sic*), and your communication has shown me that." So effectually had Mr. John Hill shuffled off this mortal coil that no trace or tradition of his ever having existed upon earth could anywhere be found, and a correspondent in the *Express* threw strong doubts upon the authenticity of the letter, which he challenged Mr. Mackenzie to submit to the British Museum authorities. He further referred to the Rillbank Crescent MSS., and asked for the history of that remarkable collection. The correspondent, as afterwards appeared, was Mr. Craibe Angus of Glasgow, an eminent authority on Burns. To this Mr. Mackenzie replied, characterising the anonymous correspondent as a dealer whose craft was in danger, and maintaining that the John Hill letter was genuine, having been "attested

fully by those who are thoroughly competent to judge, including a respected descendant of the author." Mr. Colvill-Scott, the well-known expert, next took a hand in the game, warning the public that the number of Burns and Scott forgeries in Scotland was then considerable, and urging that the letter be submitted to the British Museum; and the correspondent followed suit, offering to give a guinea to the Kilmaronck Burns Federation if the letter was pronounced genuine by those authorities. Mr. Mackenzie, in answer, denied that there was a large quantity of spurious MSS. upon the market—he had not seen one yet nor could he find one; the letter had been submitted to the most experienced critic known to exist, who was prepared to give his oath that Robert Burns wrote it; and for a change he proposed this time to have a song, "which may be followed by something more substantial." The song "To the Rosebud," commencing "All hail to thee, thou bawmy bud," failed to convince the corresopndent. He pressed for the history of its acquisition, and gave a concrete instance of a "£40 lot" of Burns MSS. recently bought in Edinburgh by a bookseller, who sold it in good faith to a customer, which was afterwards discovered to be spurious and as such returned.

The critics having proved less bawmy than the belated bud, Mr. Mackenzie, for their confusion, produced in the *Express* two other unpublished poems by Burns, to wit, "The Poor Man's Prayer," and certain verses written after hearing a sermon preached in Tarbolton Church, beginning "The Sophist spins his subtle thread," both of which he claimed were the genuine productions of our national poet, and as such would stand the strictest tests. The publication of two unknown poems by Burns attracted much attention, but, regrettably for Mr. Mackenzie, "The Poor Man's Prayer" was found, on research, to have already appeared above the name of "Simon Hedge, Labourer," in the *London Magazine*, September 1766, at which date Robert Burns was a child of seven. After making every allowance for the earliest possible development of his genius, it was difficult to believe that the bard, however prococious, wrote in his seventh year the line "No lawless passion swelled my even breast," while a reference to his prattling children

playing round his knees seemed equally premature. Further, it appeared the Sophist had not spun his subtle thread fine enough to elude the tracing of his verses to a volume of poems by Dr. Roberts, Provost of Eton College, published in London in 1774; thus, unless he stole them, Burns had no more connection with the lines —really addressed to Jacob Bryant, Esq.—than they had with Tarbolton Church. Nay, more, the pseudonymous "Poor Man's Prayer," addressed to the Earl of Chatham, was itself included by Dr. Roberts among the other poems as his own work, without acknowledgment to the infant author.

Meanwhile Mr. James Stillie, a veteran Edinburgh bookseller who dealt largely in Burns MSS., and enjoyed some local celebrity as a link with Sir Walter Scott, wrote to the *Express* that he had examined the John Hill letter, as to the genuineness of which he had no doubt. This was the prophet in his own country whom Mr. Mackenzie honoured above the English experts. How far his judgment justified that gentleman's confidence we shall see later.

Specialists were naturally anxious to inspect the mine from which such curious gems had been unearthed, and as Mr. Mackenzie had said the manuscripts could be seen at his address, Mr. Craibe Angus and Mr. Colvill-Scott, accepting this informal invitation, called together for that purpose. They took with them specimens of spurious Burns MSS., borrowed by them for the occasion from two respectable Edinburgh firms. These Mr. Mackenzie inclined to think authentic—"We were not so complimentary to those he showed us," says Mr. Craibe Angus. There is, regrettably, a direct conflict of evidence between the parties as to what occurred at this interview. The visitors stated that when pressed to disclose the source of his Burns MSS. Mr. Mackenzie said he had found them in a secret drawer of an old cabinet; his version was that the MSS. thus discovered by him were not Burns MSS., but merely old medical MSS., and that he had told Messrs. Angus and Scott so at the time, which those gentlemen denied. Enlightened later by the revelations of the *Dispatch*, which included the fact that a permit presented by him to Edinburgh Town Council, purporting to have

been granted by Prince Charles at Holyrood in 1745, was pronounced spurious, Mr. Mackenzie wrote to the press that he had dealt with the residue of his collection "as such documents deserve to be treated"; and so ended the episode known as the Cumnock Correspondence.

The publicity given to the matter by the *Dispatch* articles brought forth many interesting and instructive facts. It appeared that a familiar old-book shop in George IV. Bridge, Edinburgh, had been for some years the happy hunting-ground of an eccentric customer. His concern was mainly with ancient folios having fair and ample fly-leaves, while books bound in vellum had also for him an attraction quite irrespective of the quality of their contents. Though his purchases were necessarily bulky it was his homely habit, after paying for them on the spot, to carry them off himself; no persuasion of the obliging shopman could induce him to have them sent to an address in the ordinary way. The unusual consideration for others thus evinced by the amiable unknown created remark.

In 1886 a gentleman called one day at the shop in Bristo Place kept by Mr. Andrew Brown, a bookseller with whom he was in the way of dealing. This bookseller is to be distinguished from his eminent *confrère*, the late Mr. William Brown of Princes Street. Mr. Brown exhibited an album containing a number of letters and autographs, including those of Sir Walter Scott, Admiral Cochrane (Viscount Dundonald), Thackeray, and other great men, which he said had just been offered him for sale. After a cursory glance at the treasures in which the album abounded the gentleman inquired its price, and being told £1, instantly closed the bargain, believing he had chanced upon one of those finds whereby the hopes of the collector are too rarely crowned. A man standing in the shop during this conversation, who, it appeared, was the owner of the album, then observed that he ought now to get more than the fifteen shillings he had asked for, whereupon the customer gladly paid a few further shillings, and departed with his prize. On another occasion Mr. Brown showed this fortunate customer certain historical documents, which he said he had obtained from the former owner of the album; but

as these papers, if genuine, were obviously of great value, the gentleman very properly inquired how that person had become possessed of them, and the explanation furnished not commending itself to his mind, he, luckily for himself, declined to purchase.

The mysteriously low-priced album disclosed upon a closer inspection many points of interest. The pencilled descriptions of the items in the collector's autograph showed a striking similarity to the handwriting of the great names represented, and it was equally remarkable that the same family likeness pervaded the writing of men of characters so diverse as Scott, Hogg, Cochrane, and John Bright. Apart from this general resemblance there were other peculiarities common to collector and collected; Thackeray, for instance, having by a strange oversight omitted from the word "philosophical" the second "i," that the writer of the docquet should make the same mistake was a curious concidence. In short, one and all of the autographs were plainly spurious.

The methods of the forger in disposing of his wares ingeniously varied. Sometimes he submitted them personally or by letter to likely purchasers, sold them to booksellers of inexperienced judgment, or left them for sale with more cautious members of the tribe; sometimes he sent his goods to public auction-rooms, or when times were bad and the supply exceeded the demand, pawned them for what he could get. As he did not trouble himself to redeem his literary pledges, in due time they found their way into the sale-room. At one of these sales in 1890, a well-known Edinburgh bookseller bought in the ordinary course of business a parcel of such pledges, including Burns, Scott, and Jacobite MSS., letters of Oliver Cromwell and divers great men, together with certain books of no intrinsic value, but enriched with autograph inscriptions by Scott, Carlyle, and other authors. After the sale the various lots were carefully examined by their new owner, who was forced to the painful conclusion that he had indeed purchased, as the phrase is, a pig in a poke, with the results proverbially attending that transaction. Many of the lots were docqueted as having been bought at the Whitefoord Mackenzie sale, with the prices there paid for them. Now

the sale at Chapman's Rooms in 1886 of the library of the late Mr. John Whitefoord Mackenzie, W.S., was a very different affair from that of the Rillbank Crescent Manuscripts. The library was one of the finest and most valuable ever offered by public sale in Scotland; the sale lasted twenty-eight days, and the catalogue—a portly volume containing 8935 lots, many of great rarity and price—became a handbook for collectors. It need not surprise us to learn that on reference to this authority the bookseller found in every case the docquets impudently lied; no such items had been included in that sale. But certain of the documents and books indubitably bore the familiar Whitefoord Mackenzie book-plate. This was explained by the fact that in so large a library were many volumes of minor value which sold for a few shillings; these contained the bookplate, which the forger removed and affixed to his own works, to give, in the phrase of the distinguished Japanese official, Pooh-Bah, artistic verisimilitude to a bald and unconvincing narrative of their acquisition.

Some of the spurious documents had attached to them cuttings from catalogues descriptive of their pretended character and value. One of these corroborative details, affixed to a proclamation by the Earl of Mar issued during the Rising of 1715, by a curious chance led to more light being thrown upon the dark business in question. The cutting was recognised as from the catalogue of a sale at Chapman's Rooms in 1887 (of which we shall hear again), and the auctioneer on inquiry, referring to his books, found that the item had been purchased for £3, 10s. by Mr. James Stillie, the veteran voucher for the John Hill letter. The *Dispatch* promptly challenged Mr. Stillie to state whether he still held the document, or, if not, to whom he sold it, as they believed and averred that the MS. was not, though purporting to be, the one bought by him in 1887. That gentleman, however, declined to be drawn; doubtless he was much occupied at the time by a matter of more importance. Mr. John Stewart Kennedy, the wealthy American banker whose name is remembered in connection with the *Murthly Estate* case, had purchased from the patriarch for £750 a quantity of alleged Burns and important historical MSS. for presentation to the

Lenox Library, New York. Their authenticity had never been impugned, but the recent revelations caused a very natural anxiety on the point. Accordingly, the collection was sent by Mr. Kenendy to this country for examination by the British Museum experts, who, having inspected upwards of two hundred documents of which it consisted, reported that only one was genuine, all the rest being manifest forgeries. It was interesting to find from the historical MSS. that Mary, Queen of Scots, Rob Roy, and Claverhouse all used the same make of paper.

This was not the first occasion on which Mr. Stillie had the misfortune to differ in judgment from the London authorities regarding the genuineness of the manuscripts in which he dealt, and he had issued a leaflet headed "Manuscripts—English Experts," denouncing those gentlemen in unmeasured terms. Upwards of 300 original MSS. of Burns alone, he said, had in the course of business passed through his hands—for his customers' sake it is to be hoped that these included a larger proportion of genuine documents than those which he sold to Mr. Kennedy. In the case of a sale by him to Mr. W. W. Caddell of Manchester in 1889 of certain Burns and Scott letters, these were, on later scrutiny by experts of repute, pronounced to be palpable forgeries; yet Mr. Stillie refused to refund the money, on the ground that having known Sir Walter Scott for upwards of fifty years he was a better judge of his handwriting than any professional expert. Mr. Caddell, in the course of the correspondence which ensued, remarked that to have enjoyed the friendship of Scott for so long a period the veteran must have known him since he was ten or eleven years old, and must himself be at that time upwards of 107. This is the longest link with Sir Walter of which we have any record. No legal steps were taken by Mr. Caddell to enforce repayment; Mr. Kennedy, however, went further. He raised in the Court of Session an action against Mr. Stillie for recovery of the price paid by him for the Burns and other MSS. The defender denied that he had represented the documents to be genuine, and also denied that they were forgeries. Mr. Kennedy, yielding to repeated appeals addressed to him by Mr. Stillie on the ground of his advanced years and the state of his health, and con-

sidering his protestations of entire good faith and strict honesty in the transaction, authorised his law agents to drop the action, which was accordingly done.

The publication by the *Dispatch* of facsimiles of some of the MSS. pawned by the forger furnished an important clue. A reader recognised the writing of the false docquets as bearing a striking resemblance to that of a clerk named Smith whom he casually employed, and specimens of this person's penmanship supplied to and published in the *Dispatch* left little doubt that the same hand was responsible for both. Alexander Howland Smith, the man in question, who lodged at 87 Brunswick Street, Edinburgh, was, it appeared, thirty-one years of age. His ostensible occupation was that of a copying clerk, in which capacity he was occasionally engaged in various law offices in the city. He was described as of dull appearance, but plausible and insinuating address, and as possessing an intimate acquaintance with the lives and works of Burns and Scott. Among his friends he was known as "Antique" Smith, from the fact that he had constantly about him old documents or other curiosities for sale. In the course of an interview with a *Dispatch* reporter Smith frankly explained how he acquired his literary and historic treasures. He was at one time clerk in the office of the late Thomas Henry Ferrier, W.S., whose father had been agent for several great families. In such a business a large quantity of old papers had accumulated, and, according to Smith, Mr. Ferrier told him to clear these out and destroy them. Instead of doing so, however, Smith took the papers home, and discovering among them many documents of value, he from time to time converted these into cash. He was content to dispose of his documents to certain booksellers at prices ranging from one to fifteen shillings on the spot, rather than wait for the larger return to be obtained by dealing personally with collectors. Finding a ready market for genuine MSS., Smith, when the original store became exhausted, replenished his stock by providing counterfeits. He claimed that on due notice he could supply any kind of ancient MS.; the demand was constant, but he was able easily to meet it. Such was his own account of the transactions. The scene of his literary labours was a little summer-house connected

with some model gardens situated behind Hope Crescent in Leith Walk. "He is said to dread prosecution for his part in the traffic," wrote the *Dispatch;* "though he doubts if positive proof that he manufactured MSS. can be adduced." These doubts the subsequent trial and conviction must have gone far to remove. Whether or not Smith ever had in his possession any genuine MSS. at all is uncertain; probably on this, as on other points, he lied. In view of the circumstances in which he left Mr. Ferrier's employment in 1883—he was charged with stealing two cheques from the office—that gentleman would doubtless think Smith had already taken documents enough.

On 5th December, within a fortnight of the *Dispatch's* "First Blaste" against the scandalous prevalence of forgery, the authoriites—not those alien ones of the British Museum, contemned by Messrs. Stillie and Mackenzie, but the local experts of the Criminal Investigation Department—at last intervened in the controversy by arresting Smith on a magistrate's warrant, and next morning that ingenious gentleman was in the Police Court formally remitted upon the charge of uttering forged documents as genuine.

The columns of the *Dispatch* continued open to the discussion of how far the collecting public had been duped, and many interesting sidelights were thrown upon the methods of the forger and the extent of his practice, of which considerations of space here forbid an account. The *Athenæum,* in an article dealing with the mischievous and widespread effects of the fraud, observed: "Spurious documents, including letters of Queen Mary, Claverhouse, Jacobite chiefs, Walter Scott, and Thackeray, inedited poems by Burns, etc., have been for the last five years scattered broadcast over Scotland and England, the United States, and the Colonies. The *Dispatch* will probably reprint in some separate form the whole story, together with numerous facsimiles of the documents and of Smith's handwriting. It will form a useful vade mecum for the amateur collector of literary curiosities." Unfortunately this was not done, and the only separate account of the matter, so far as known to the present writer, is the chapter entitled "Wholesale Forgeries Perpetrated in Edinburgh," contained in Dr. Scott's

valuable work, *Autograph Collecting* (London, 1894). The treatment of the subject there is necessarily brief, and the ashes of the controversy still remain buried in the files of the *Dispatch*. It is satisfactory to note that Dr. Scott, who personally examined many of the forged MSS., remarks, "There is no evidence whatever to show that a person of common sense possessing the most elementary knowledge of autographs need have been deceived, or anything that should cause the average collector to be at all nervous about his treasures." The author gives some useful hints respecting the characteristics of genuine autographs of Burns and Scott as contrasted with those of the laboured and clumsy imitations.

Although the *Dispatch* had picturesquely described the spurious MSS. as executed with a skill compared with which the forgeries of Chatterton and Ireland were but infants' efforts, it is plain that the view expressed of the forger's executive ability is much too favourable. He displayed upon occasion a kind of cynical carelessness. One of the Burns letters, for instance, had been sealed, and attached to the wax was a piece of paper, apparently torn from the sheet when the letter was opened; on examination, however, this was found too large to fit the place from which it should have been torn, and was, moreover, of quite a different texture. By a curious coincidence numbers of letters written by all sorts of distinguished people from 1757 to 1858 began and ended with the same form of words. A copy of the Solemn League and Covenant on parchment, bearing to be two hundred years old, was pronounced by Dr. Joseph Anderson, secretary to the Society of Antiquaries of Scotland, obviously to have been "written yesterday." The Kennedy and other historical MSS. were by persons learned in Scottish history proved on internal evidence false, by reason of the gross and ignorant blunders, chronological and factual, in which they abounded; and this apart altogether from technical questions of age, handwriting, etc., with regard to which it was also found by scientific tests that documents ranging from 1644 to 1793 were written in similar ink and with a steel pen!

On 14th December the prisoner, having emitted a

declaration, was committed for trial, and on the 16th a petition was presented on his behalf to the High Court of Justiciary, craving the Court to restrain the *Dispatch* from publishing further articles on the subject until after the trial. Mr. Dewar, advocate, in support of the application, stated that since 22nd November a series of articles had been published by the *Dispatch,* entitled "Great Forgeries of Old MSS," in which Smith was named as the forger; his methods and appearance were described, and his address and photograph given, together with representations of his handwriting as compared with the writing of the forged MSS. Notwithstanding his apprehension and committal the *Dispatch* still continued to publish articles similar in their nature and tendency, and calculated to prejudice the prisoner in his defence. On 9th December an article appeared, headed "The MSS. Forgeries," and similar articles had been published every evening since that date. The continued publication of these was highly injurious to the accused, and he asked the Court to prohibit the *Dispatch* from circulating any further statements relative to the alleged forgeries until the prisoner should be tried. The Court ordered the petition to be intimated to the respondents—the editor, the publishers, and the proprietors of the *Dispatch* —and ordained them to appear by counsel at the Bar next day.

Accordingly, on 17th December, Mr. F. T. Cooper, advocate, appeared for the respondents, the prisoner being represented by Mr. Dewar. Mr. Cooper objected to the form of the application as incompetent, and disputed the right of the Court to interfere with the publication of anything that a newspaper chose to publish, so long as it did not amount to contempt. It would be contempt if the *Dispatch* criticised the evidence against the petitioner and insinuated that he was guilty, but since the date of his arrest they had been careful to omit his name from all discussion of the MSS. frauds. Mr. Dewar contended that in this matter the Court had jurisdiction, and found on the case of *Edmond* (7th December 1829, Shaw's *Justiciary Reports,* p. 229). Such articles as "The Forger and His Prey," published on 9th December, and "The Investigations of a Chemical Expert," on

the 16th, though not referring to Smith by name, must, if read by persons who should sit upon the jury, unfairly prejudice his case. The Lord Justice-Clerk (Macdonald), in giving judgment, observed that the application was plainly competent. Apart from the clear precedent in the case of *Edmond,* his Lordship had no doubt that so soon as a person was placed by a magistrate in the hands of the authorities to be tried for an offence, he was under the protection of the Court, and was entitled to ask the Court to secure him against anything which might prejudice the public mind and prevent him having a fair trial. After referring to the very important service rendered by the recent discussion in the *Dispatch,* his Lordship said that once a person was charged and committed for trial with reference to matters which a newspaper had brought to light, all that ought to be effected by the work of a public journal was at an end; the investigation was then in responsible official hands. His Lordship therefore proposed to pronounce such an order as would prevent any further comments which might be prejudicial to the prisoner. Lords Trayner and Kincairney concurred, and the Court pronounced an interlocutor prohibiting the respondents from publishing or circulating statements relative to MSS. or signatures alleged to have been forged by the petitioner, until the proceedings against him had been brought to a conclusion.

On Monday, 26th June 1893, Alexander Howland Smith was placed at the Bar of the High Court of Justiciary, charged with selling and pawning spurious MSS. as genuine. The Lord Justice-Clerk presided, Messrs. R. U. Strachan and J. A. Reid, Advocates-Depute, conducted the prosecution, and the prisoner was represented by Messrs. Dewar and Grainger Stewart, advocates. The trial is reported in the first volume of Adam's *Justiciary Reports.* The indictment bore that the pannel had formed a fraudulent scheme of obtaining money from others by fabricating manuscripts of apparent historic or literary interest, and disposing of these as genuine to parties who might purchase the same or take them in pledge. There were four separate charges against the panel, namely—(1) on various occasions between 1st January and 31st August 1892, pretending to Andrew

Brown, bookseller, 15 Bristo Place, Edinburgh, that fifty-three manuscripts were genuine, and that he had obtained the same from the office of the late Thomas Henry Ferrier, W.S., and thus inducing Brown to purchase them at various prices to the prosecutor unknown, he (Smith) knowing the documents to be false and fabricated by himself, and appropriating the proceeds to his own use; (2) on certain dates between 18th August 1888 and 31st May 1889, pretending to George Tait, manager of the Equitable Loan Company of Scotland, Milne Square, Edinburgh, that thirty-two manuscripts were genuine, and that they had been bequeathed to him by his uncle, Mr. Ferrier, and thus inducing Tait to take the same in pledge and advance £24, 2s. on security thereof; (3) on certain dates in August 1889, pretending to James Williamson & Sons, pawnbrokers, 98 Rose Street, Edinburgh, that ten manuscripts were genuine, and thus inducing him to advance £6 on security thereof; and (4) on certain dates in September 1889, obtaining by similar means from James Mullan, pawnbroker, 35 South Bridge Edinburgh, 15s. on security of three manuscripts. Annexed to the indictment was a list of 170 productions, chiefly MSS., and a list of forty-seven witnesses cited for the Crown. Among the productions were four volumes of *The Autographic Mirror*—a useful text-book for students of forgery—and an extensive collection of ink-bottles, penholders, and other literary requisites, from the prisoner's rural retreat behind Leith Walk.

When the diet was called counsel for the prisoner stated the following objections to the relevancy of the indictment:—Failure to specify the amount received under the first charge; in the pawnbroking charges, no allegation that the security was inadequate; it should have been stated that the accused had no intention of repaying the loan, and, in all the charges, that the value of the documetns was not equivalent to the sum obtained, and that loss had been sustained by those who gave money for them. Mr. Strachan, for the Crown, replied that false representation to induce payment of money was the crime charged. The genuineness of the documents was essential to the transaction, and there was a distinct

averment that they were spurious and had been represented as genuine. His Lordship repelled the objections, the prisoner pleaded Not Guilty, a jury was empannelled, and the prosecutor adduced his proof.

The first witness was Andrew Brown. He stated that he became acquainted with the prisoner in 1886, when Smith brought him the album of autographs already mentioned. Some months later he bought from Smith certain Mar and Argyll documents, upon the representation that these had come from Mr. Ferrier's office. To verify the statement he called upon Mr. Ferrier, who said there were a lot of such things in his office which were of no legal value, and that he did not know where Smith had ferreted out the other autographs, but he (Ferrier) might find it difficult to identify them and would leave them alone. After Mr. Ferrier's death witness continued to buy documents from Smith, as he found a ready sale for them. He sold to Mr. Buchanan in 1887 twenty-two of the documents produced, nine to Mr. Moir Bryce in 1887 or 188, seven to Mr. Mackenzie in 1890, and others to various customers. He showed to purchasers a letter from Smith, dated 8th April 1887, giving an account of how he came by the documents. He kept no record of his transactions with Smith, which lasted from 1886 to 1892. In November 1887, having heard many stories about the authentiicty of the MSS., he sent some of these to Chapman's' Rooms for public sale, where the Duke of Argyll's agent claimed certain documents as the property of His Grace—which, by the way, were afterwards found to be forged and were accordingly destroyed. The prices obtained at the sale ran from ten to fifteen shillings. In cross-examination, Mr. Brown said he believed the pannel's statement as to the acquisition of the MSS., but he sold them without a guarantee. He declined to say what was his present opinion about the documents. If he had made a profit on them, his business as a whole had suffered by the transactions. The following letter was read to witness, who admitted that he might have written it to Smith:—

26th November, 1890.—If you could bring up anything more on the Covenanters or the Covenant; you spoke of a large

thing you had; also items I am specially wanting—the following, as on other side, if you have them. You might please call to-night (Friday) at, say, quarter past seven.

Sanquhar Declaration and Testimony, 22nd June 1680.
Do. Do. 28th May 1685.
Hamilton Declaration, June 1679.
Also the large parchment things you spoke of.
Also any important man.
Also Graham of Claverhouse.

And any other variety. If you drop a postcard I would get it, for fear I might be out.

Mr. Brown's faith in the richness of the Ferrier *trouvaille* was apparently as inexhaustible as that treasure itself.

The next witness, Mr. Buchanan, spoke to his purchase from Mr. Brown of some of the documents libelled. He paid £50 for them. "When did you discover they were bad?" asked the prisoner's' counsel. "About five minutes after I bought them," was the reply. Mr. Moir Bryce and Mr. Mackenzie gave similar evidence; they had paid Mr. Brown £70 and £50 respectively for MSS. bought from him. Mr. George Tait described the pawning of the MSS. by the prisoner. At the time he believed the documents genuine, but had his suspicions that Smith himself was spurious. These, however, were allayed on production by the latter of Mr. Ferrier's will, bequeathed to him as his nephew the whole of his valuable MSS. It seems superflous to add that the will was forged. The documents pawned were sold as unredeemed pledges on 3rd April 1890. Mr. George Thin deponed that he purchased certain lots at the sale for £12. He afterwards found these to be forgeries and handed them later to the Procurator-Fiscal. After further evidence as to the other pawnbroking charges, Mr. Chapman, auctioneer, stated that none of the documents libelled had been included in the Whitefoord Mackenzie sale in 1886, while Mr. Dowell gave similar evidence regarding the Gibson Craig sale in 1887, some of the MSS. purporting to have been bought at those sales.

Several other witnesses having been examined, one of whom stated that Mr. Stillie was too old and feeble to come to Court, Mr. G. F. Warner, assistant-keeper of MSS. in the British Museum, deponed that at the request of the

Procurator-Fiscal he had inspected the documents produced in the case. His conclusion was that the whole were spurious, and that they were all written by the same hand. They were of four classes:—Burns, Scott, miscellaneous letters, and historical papers. The Burns MSS. were written upon paper such as Robert Burns never used. In some cases it had plainly been torn out of old books, in others, artificially tinted to give the appearance of age. All the signatures had been formed on one model. As to the Scott letters, these were folded in a different manner from that employed by Sir Walter, the paper was not such as he used, and the handwriting continually lapsed into that which appeared on the docquets. The handwriting of the miscellaneous letters was totally unlike that of the supposed writers. With regard to the historical documents, in some instances the dates were impossible, in all the imitation of the handwriting was bad, the signatures defective, and the paper of a different character from that used for official purposes. It being then seven o'clock the Court at this stage rose.

Next day, Tuesday, 27th June, on the resumption of the sitting, Mr. G. S. Inglis, expert in handwriting, was examined, who concurred in the evidence given by Mr. Warner. The handwriting of the docquets was, he said, unmistakably that of Smith. This closed the Crown case. For the defence, Miss Agnes Smith, sister to the prisoner, stated that in 1884 her brother showed her in Mr. Ferrier's office a room, the floor of which was covered with documents and papers. She remembered him bringing a lot of papers home to their house in Albany Street. When they removed in the preceding September she burned a basketful of these, as she was destroying all the rubbish in the house. It is a pity that the lady's reforming zeal was satisfied with the sacrifice of a single basketful. J. H. Dobbie, gunner, Royal Artillery, said that he had lived with the prisoner for eighteen months, beginning in 1889. Durng that time he never saw Smith preparing spurious documents.

The evidence for the defence concluded, Mr. Strachan addressed the jury for the prosecution. With reference to the first charge, the question was, he said, whether the documents delivered by the accused to Mr. Brown were

received by him on the strength of Smith's representation that they were genuine. He expressed surprise at the line taken by the defence, namely, that Mr. Brown himself knew that they were not genuine, of which there was no evidence. At an early stage of the transactions some doubts certainly were cast upon the authenticity of the MSS., and in order to test that Mr. Brown offered some of them to public sale at Chapmen's, where they fetched good prices. There was, no doubt, a difference of opinion as to their being genuine, but Mr. Brown honestly believed in them and continued to do business with the accused on that footing till the very end. The defence insinuated that the letter from Mr. Brown, put in by the prisoner, was an order as from a merchant to a manufacturer, but its terms were explained by Mr. Brown's belief in the existence of a large collection of documents in Smith's hands. Mr. Brown paid throughout substantial prices for what he bought. With respect to the pawnbroking charges, the fraud was committed the moment Smith pledged the MSS., whether the pawnbrokers lost by advancing money on them or not. That all the documents produced were spurious and fabricated by the accused admitted of no doubt. The evidence of Mr. Warner, one of the greatest authorities, was on that point conclusive. He therefore asked for a verdict of guilty upon all the charges.

Mr. Dewar then addressed the jury for the defence. The Crown, he said, sought to prove that the accused had swindled four men. One, Brown, had been driven to admit that he had been a substantial gainer; the other three had in the box admitted that they made money out of Smith. The essence of the crime charged was that someone had been deceived and by that deception was induced to part with money. Did the jury believe that Brown was the injured innocent he pretended? If Mr. Buchanan, an amateur, speedily detected forgery, why was it not equally apparent to Brown, who was in the trade? He was a very unsuspicious man when cross-examined, but not quite so simple when making a bargain—he stuck to the £50. After narrating the connection of Mr. Brown with the series of documents, counsel observed, "That is the man who says, 'I was a simple dupe for seven years'"! He

ordered these manuscripts from Smith as he would order a pair of trousers or a sack of coals; the jury, however, would not make Smith the scapegoat. The pawnbroking charges were in an entirely different position, the witnesses being all perfectly reputable and honest men, who told the truth. Williamson took the documents on Stillie's representation that they were genuine, and Mullan took them as a speculation. If they afterwards became the innocent medium of deceiving the public, Smith was not charged with that, but with deceiving the pawnbrokers. In conclusion, counsel threw doubts upon the expert testimony, skilled witnesses as to handwriting being, he said, notoriously unreliable. Finally, he argued that no crime had been committed and no injury done to anybody, upon both of which grounds the accused was entitled to a verdict.

The Lord Justice-Clerk, in charging the jury, remarked upon the novel features of the case. With regard to its legal aspect, his Lordship said that if the prisoner fabricated these documents for the purpose of selling then as of literary and historic interest to persons who bought them on his representation, that undoubtedly was a crime in the law of Scotland. The question was whether or not the documents were spurious. Counsel for the prisoner first argued that Brown knew that they were forgeries, and then contended that they were genuine; he could not have it both ways. As for the expert testimony, that evidence went much further than mere similarity of writing; apart altogether from comparison of handwriting there was the question of the paper used and the character of the contents After reviewing the evidence upon these points, his Lordship observed that it was for the jury to say if even a plausible case had been made out that the prisoner got the documents from Mr. Ferrier's office. In respect to the first charge, if the prisoner's case was that Brown knew the documents were spurious, the prisoner himself must also have known. If the jury were satisfied that these two were concerned together in a fraudulent scheme, then, of course, the first charge must fall; but that would be a very strong step to take. It was more than judging of Brown's credibility if they found that he was a party to a criminal scheme. Even if they held that Brown, having at first believed the story, came to know later that he was buying

fictitious documents, they could convict the prisoner under that charge. As to the pawnbroking charges, if Mr. Tait advanced money to the prisoner, relying upon the fictitious will of Mr. Ferrier, and if Williamson and Mullan respectively did so on false representations made to them by him regarding the documents, that was sufficient to entitle the jury to convict. Whether or not anyone had suffered loss by the prisoner's guilt, if proved, might be considered in awarding his punishment, but had no bearing upon the question which they had to determine. The crime was a very serious and uncommon one; if their deliberations led to a conviction his Lordship would consider any recommendation as to punishment which, as common-sense citizens, they might see fit to make.

The jury then retired, and after an interval of half an hour brought in a unanimous verdict of guilty on all the charges, but by a majority they recommended the prisoner to the leniency of the Court, on the grounds of the unusual character of the crime and the facility afforded him for disposing of spurious documents. The Lord Justice-Clerk said that in view of that recommendation he would abstain from pronouncing sentence of penal servitude; and the prisoner, having been sentenced to imprisonment for twelve calendar months, was removed, and the Court rose.

This, professionally, was the end of "Antique" Smith; but the evil that men do lives after them—of the truth of which saying the present case is a palmary example. The forged manuscripts recovered and produced by the Crown were but the gleanings of the nefarious field in which for over seven years Smith had so discreditably laboured, and there is reason to fear that, as some at least of his literary tares must still survive among the genuine grain, unwary amateurs may yet be tempted to give their money for that which is not bread. The contemporary autograph collector —that badly burnt child—after the revelations of the trial naturally fought somewhat shy of Burns. But a new generation has arisen which knew not Joseph and his Edinburgh brethren; for such this narrative of the forgotten facts may, like the moral pocket handkerchiefs described by Mr. Stiggins, be found to combine amusement with instruction.

Note I.—"Antique" Smith on the *Dispatch* Articles.

The following letter, addressed in the circumstances therein mentioned to James Cameron, an Edinburgh antiquarian bookseller, by "Antique" Smith some years after his release from prison, containing an admission of guilt, and showing the writer unchastened by punishment and exposure, is printed from the original MS. in my possession:—

26 George Street,
Edinburgh, 20*th November* 1905.

James Cameron, Esq.,
South St. David Street.

Dear Sir,—With reference to our recent conversation on the Articles which appeared in the *Dispatch* and *Scotsman* Newspapers some years ago, relating to Historical MSS., and of which I believe you have formed a collection, allow me to mention that through a lot of balderdash there percolates a *soupçon* of truth; but I really never at any time took the trouble of even reading or studying them, after the first or second issues. I left the result to the Laws of Nature, and did not deem it necessary to answer any of them in public print; but all the facsimiles, so far as I recollect, were my own workmanship—a fact I do not and did not deny. I hope, in reading the lucubrations, you will not hold me in any way responsible for the various wonderful theories propounded by some of the writers. They are simply romance, so far as I was concerned.—Yours truly,
A. H. Smith.

For "Laws of Nature" we should perhaps read those of Scotland; "facsimiles" is a pleasant euphemism for forgeries.

Note II.—It may interest the reader to know that Thomas Henry Ferrier, W.S., whose clerk Smith had been, was a nephew of Susan Ferrier, the inimitable author of *Marriage, The Inheritance,* and *Destiny.*

THE WITCHES OF NORTH BERWICK

He wase ane wyce and wylie wychte
Of wytch and warlockrye,
And mony ane wyfe had byrnit to coome,
Or hangit on ane tre.

He kenit their merkis and molis of hell,
And made them joifully
Ryde on the reid-het gad of ern,
Ane plesaunt sycht to se.

—*The Gude Greye Katt.*

THERE is still a magic in the name of North Berwick, though different in quality from of yore. To golfers it connotes either a present pleasure or an agreeable memory; and even bookish folk of sedentary habits, who drive not, neither do they putt, have read in Stevenson's incomparable *Lantern-Bearers* about a certain easterly fishing-village, and know something of its curious and perennial charm. The modern visitor to this choice piece of seaboard need dread no ghostly enemy but Colonel Bogey, nor will he be called upon to withstand the assault of any spirits more potent than such as his landlord's cellar may supply. But things were otherwise with the bright little town in the days of our sixth James, when North Berwick was deemed a name of fear, and its ancient sea-beaten kirk and graveyard, long the dormitories of the dead, became for the time a very synagogue of Satan, and suffered the unquiet walks of devils.

Whether his sacred Majesty, King James the Sixth of Scotland and First of England, was in fact the mere buffoon and bore that certain amiable historians would have us believe, or the subtle scoundrel of another school of writers, might admit a wide solution, but does not now concern us. The character of that unpleasant prince, however, had, on his own showing, certain minor characteristics germane to our theme. His aversion from the use of

tobacco, as expressed in the famous *Counterblaste,* is well known: —" A uastume lothsome to the eye, hateful to the Nose, harmefull to the braine, dangerous to the Lungs, and in the blacke stinking fume thereof, neerest resembling the horrible Stigian smoke of the pit that is bottomelesse." No less temperate and reasonable than his hatred of " this filthie noveltie " was the monarch's admitted weakness for all that pertained to the mysteries of witchcraft. As the result of exhaustive experiments in the torture and burning of its professors, James published, in 1597, his *Dæmonologie,* that remarkable tract, " in forme of a Dialogue, divided into three Bookes," being a commentary on the text, " Thou shalt not suffer a witch to live." How far this work was the unaided product of the royal pen may also admit conjecture, but that it embodies his views upon the subject, we shall shortly see.

The Weird Sisters, to whose allurements his Majesty's royal predecessor, Macbeth, fell so ready a victim, could boast a mighty progeny, which, by the sixteenth century, had over-run broad Scotland; but though James and his clerical pack persistently hunted witches to the death, with only less gusto than he and his " Greencoats " harried the fat bucks amid the pleasant glades of Falkland, the game was equally plentiful. He found the sport congenial; it combined at once amusement and instruction, ministering as it did both to his cruelty and vainglory, with him two very powerful passions.

" The forms of witchcraft developed in Scotland," writes Mr. Hill Burton, " had the grand picturesqueness which recommended them to the purposes of Shakespeare; and of all the supernatural escapades admitted by them in their confessions, none are more richly endowed with the grotesque, the fanciful, and the horrible, than those which were confessed in the presence of King James himself, as appertaining to designs entertained and attempted by the powers of darkness against his own sacred person." The occasion of these supranormal treasons, of which it is here proposed to give a brief account, was the marriage of James, then in his twenty-fourth year, to Anne, Princess of Denmark, a Lutheran damsel of fifteen. Such was the genial glow of love or policy enkindled in the royal bosom by the projected match, that in the month of October,

1589, the gallant James actually ventured his precious person upon the deep, and sailed for Norway to seek his storm-stayed bride. For the information of his subjects, he explained, in a declaration which he left behind him, that he took this step, so at variance with his received character, to avoid being slandered "as ane irresolute asse, quha can do na thing of himselff." In the following May, having, as he says, spent the interval "drinking and driving ower," he returned triumphant to his kingdom with the "sea-king's daughter from over the sea," to brag for the remainder of his days about the bold achievement. Meanwhile, the consummation of so high and holy a purpose had naturally exasperated the powers of hell; and we shall find from what devil-contrived perils in the great waters the intrepid wooer was providentially preserved. James, who believed himself to be, by reason of his peculiar sanctity and literary gifts, personally obnoxous to Satan, could hardly fail to appreciate the very flattering interest thus taken by the infernal executive in his private affairs. As regards the human instruments, however, this nowise mitigated the severity of the royal wrath, for *lèse majesté* was with him the unforgivable sn; and the flames of the witch-fires blazed over Edinburgh from the Castle Hill more frequently and fiercely than before.

What we know regarding this diabolic conspiracy against the King's life is derived from the original records of the trials of such unfortunate persons as could be tortured into admitting complicity therein, and from a rare contemporary tract, in which their several confessions are fully set forth. The title of this curious treatise, the earliest work on Scottish witchcraft and superstition, is as follows:—"Newes from Scotland, Declaring the damnable life of Doctor Fian, a notable Sorcerer, who was burned at Edenbrough in Januarie last 1591; which Doctor was Register to the Devill, that sundrie times preached at North Barricke Kirke to a number of natorious Witches; with the true Examinations of the said Doctor and Witches, as they uttered them in the presence of the Scottish King: Discovering how they pretended to bewitch and drowne his Majestie in the sea, comming from Denmarke, with such other wonderfull matters, as the like hath not bin heard at anie time. Published according to the

Scottish copie. Printed for William Wright." This tract, which, with the imprint " At London, printed for Thomas Nelson," seems first to have been reprinted in the *Gentleman's Magazine,* August-September, 1779, was reprinted for the Roxburghe Club, 1816, and later by Pitcairn in his *Criminal Trials;* and Charles Kirkpatrick Sharpe quotes largely from it in his preface to Law's *Memorialls.* The original is embellished with certain curious woodcuts to which I shall later refer.

In presenting this True Discourse to a wondering world, the anonymous author warns his readers against certain surreptitious copies thereof, lately dispersed in manuscript, " containing that the said Witches were first discovered by meanes of a poore pedlar travelling to the town of Trenent; and that by a wonderfull manner hee was in a moment convayed at midnight from Scotland to Burdeux in France (being places of no small distance), into a Merchant's sellar there; and after beeing sent from Burdeux into Scotland by certaine Scottish merchants to the King's Majestie, that he discovered those Witches, and was the cause of their apprehension; with a number of matters miraculous and incredible; all which, in truth, are most false." So he proceeds to give an authentic relation of the facts, praying the reader " to accept of it for veritie, the same being so true as cannot be reproved." One of his woodcuts, however, depicts the pedlar asleep in the supposititious " sellar."

" Within the towne of Trenent, in the Kingdome of Scotland," he writes " there dwelleth one David Seaton, who, being deputie bailiffe in the said towne, had a maid called Geillis Duncan, who used secretie to absent and lie furth of hir maister's house every other night." It was also remarked of the damsel that she " tooke in hand to helpe all such as were troubled or grieved with anie kinde of sickness or infirmitie "—not, one would think, a subject of reproach—" and in short space did perfourme many matters most miraculous." Such works of charity were in those days evidently so rare as to create unfavourable remark. These benevolent deeds, coupled with her nocturnal irregularities, suggesting to her master that " she did not those things by natural and lawfull waies," he began to grow " verie inquisitive," and eximined her by

what means she was able to act as she did, whereat she gave him no answer. To satisfy his curiosity, Mr Seaton, who seems to have been a man of determined character, "did, with the help of others, torment her with the torture of the pilliwinkes [thumbscrews] upon her fingers, which is a grievous torture, and binding or wrinching her head with a cord or roape, which is a most cruell torment also; yet would she not confess anie thing. Whereupon they, suspecting that she had been marked by the Devill (as commonly witches are), made diligent search about her, and found the Enemie's marke to be in her fore craig [front of her throat], which being found, shee confessed that al her doings was done by the wicked allurements and entisements of the Devil, and that she did them by witchcraft."

Geillis Duncan was thereupon committed to the Tolbooth, where she continued a season, and denounced as notorious witches the following persons:—viz., "Agnes Sampson, the eldest witche of them all, dwelling in Haddington; Agnes Thompson of Edenbrough; Doctor Fian, *alias* John Cuningham, master of the schoole at Saltpans in Lowthian, of whose life and strange acts you shal heare more largely in the end of this discourse. These were by the said Geillis Duncan accused, as also George Nott's wife, dwelling in Lowthian; Robert Grierson, skipper; and Jannet Blandilands; with the potter's wife of Seaton; the smith at the Brigge Hallis, with innumerable others in those parts and dwelling in those bounds aforesaid; of whom," continues our author, "some are alreadie executed, the rest remaine in prison to receive the doome of judgment at the Kinge's Majesties will and pleasure." Not content with this formidable list of local victims, Geillis denounced and caused to be apprehended two ladies of superior rank, Euphame MacCalzean and Barbara Napier, "reputed for as civill honest women as anie that dwelled within the cittie of Edenbrough," the former being the daughter of a Lord of Session. "Many other besides were taken dwelling in Lieth, who are detayned in prison untill his Majestie's further will and pleasure be knowne." Thus, having once brought down the obscure maidservant of Tranent, James, by the end of the day, had secured a good mixed bag.

Agnes Sampson, "which was the elder witche," was,

according to Archbishop Spottiswood, "commonly called the Wise Wife of Keith"—an East Lothian village. He describes her in his *History* as "a woman, not of the base and ignorant sort of Witches, but matron-like, grave, and settled in her answers, which were all to some purpose." Sir James Melville mentions her in his *Memoirs* as "ane renowned midwyf." This dignified dame was duly haled before the King and "the Lordis of his Secrete Counsale," at the Palace of Holyrood House, where she was "straytly examined"; but not all the persuasion which His Majesty, with the advice of his Privy Council, used to her could provoke her to confess anything: "she stoode stiffely in the deniall of all that was layde to her charge." King James was not to be balked so lightly of his favourite sport; provision had been already made for such a contingency, and the venerable Agnes was sent back to the Tolbooth, "there to receive such torture as hath beene lately provided for witches in that country." By special commandment of her gracious sovereign, her hair was shaven off, and her head "thrawne with a rope, beeing a payne most grevous, which she continued almost an hower"; still would she confess nothing. On research, however, "the Divel's marke" was found upon her body, when she immediately confessed "whatsoever was demanded of her, justifying those persons aforesaid to be notorious witches."

The revelations of this veteran sorceress, when she was further examined before the King in Council, must have satisfied even so voracious an appetite for the marvellous that of James himself. On the previous All-hallow-e'en, the night of 31st October, and a red-letter day in the infernal calendar, Agnes, "accompanied as well with the persons aforesaide, as also with a great many other witches, to the number of two hundreth," went to sea, each one in a riddle or sieve, in which they sailed "very substantially" for the Kirk of North Berwick in Lothian. Fortified against the perils of the voyage with divers portly flagons—like Peacock's "Seamen three," whose ballast was old wine—they passed the time "making merrie and drinking by the way in the same riddles or cives"; and having landed safely on the Lothian shore, they took hands "and daunced this reill or short daunce, singing all in one voice:—

Cummer goe ye before, cummer goe ye,
Gif ye will not goe before, cummer let me."

This catch concluded, the band, preceded by Geillis Duncan, the maid of Tranent, playing the reel "uppon a small trumpe called a Jewes trump," made their way to North Berwick Kirk. If any decent folk were out of doors to see, they must have fled in terror from so weird a spectacle:—

That night, a child might understand,
The deil had business on his hand.

"These confessions," says our author, "made the King in a wonderfull admiration." He at once sent for Miss Duncan, then confined in the Tolbooth, "who upon the like trump did play the saide daunce before the Kinges Majestie, who, in respect of the strangeness of these matters, tooke great delight to be present at their examinations."

On arriving at the Kirk, the party was reecived by Satan himself "in the habit or likenesse of a man." Business was brisk in those days, and his time was valuable; annoyed at having been kept waiting so long, he "enjoyned them all to a pennance," the precise nature of which I must be excused from stating. Even Sinclair, having occasion to mention the matter in his *Satan's Invisible World Discovered,* does so "with reverence to the Reader." This disagreeable duty duly discharged by his servile flock, the Devil preached a sermon, wherein he did greatly inveigh against the King of Scotland; he then received the oaths of the congregation for their good and true service towards him, and departed; which done, they returned to sea, and so home again. Before the assembly broke up, someone inquired of the Devil, "Why he did beare such hatred to the King? Whereupon Satan made answer, 'By reason that the King is the greatest enemie hee hath in the world.'" In the account of Agnes Sampson's examination given by Spottiswood, the Devil's objection to James is stated in the French tongue, which Agnes did not understand, though she remembered the words, *Il est homme de Dieu.* Sir James Melville gives a

similar version of the incident. It would appear that Satan's intelligence regarding the character of the Scottish monarch was strangely inaccurate, due, doubtless, to the inferior quality of his emissaries. The source of the last item of the confession is sufficiently obvious; but though James's lust of flattery made him swallow even such gross fare as this, the hapless adulators did not thereby escape a fiery doom.

In reply to further questions, Agnes confessed before the King's Majesty "sundrie things" of so strange a nature that even the credulous James jibbed, expressing his opinion that the lady and her associates were all "extreame lyars." But the wily sorceress had reserved a card which she now played with startling effect. "Taking his Majestie a little aside, she declared unto him the verie wordes which passed between the King's Majestie and his Queene at Upslo in Norway, the first night of mariage, with the answers ech to other; whereat the Kinge's Majestie wondered greatly, and swore by the living God that he believed all the devils in hell could not have discovered the same, acknowledging her words to be most true." Unfortunately, no report of the royal conversation referred to has been preserved. After this indisputable proof of the sibyl's good faith, James was, of course, prepared to believe anything. A "blacke toade" had been hung up by the heels for three days, its vemon collected in an oyster shell, and carefully preserved until such time as Agnes could obtain any "foule linnen" soiled by the sovereign's use, "as shirt, handkercher, napkin," &c., from an old acquaintance, one John Kers, "attendant in his Majestie's chamber," which, had she obtained it, would have enabled her to bewitch its owner to the death, and put him to such "extraordinarie paines" as if he had lain upon thorns and "endis of needels." This design having failed by reason of the incorruptibility of the royal valet, she and her accomplices, while James was returning from Denmark, took a cat, christened it, and bound to each part of that cat "the cheefest part of a dead man and severall joyntis of his bodie." Thereafter the parties embarked in the riddles or sieves with their gruesome freight, and sailing into the "middest" of the Firth, "left the saide cat right before the towne of Lieth." As the result of these machinations,

there instantly arose a violent storm, during which a vessel, crossing from Burntisland to Leith laden with a costly cargo of " jewelles and rich giftes " for presentation to the Queen on her arrival in Scotland, was lost with all on board; and the ship that bore the royal pair experienced throughout the voyage a private and peculiar tempest, the ships of the convoy having " a faire and good winde," which thing was no less strange than true, as His Majesty frankly admitted. Further, according to Agnes, King James would never have come safely from the sea if his faith had not prevailed over the witches' intentions.

Satan in after years must often have had occasion to congratulate himself that, by his own lack of foresight and the incompetence of his agents, so promising a prince was not prematurely despatched.

Sir James Melville, who had the curiosity to interview some members of the North Berwick " Conventioun," elicited certain interesting details regarding the physical attributes of the Prince of Darkness. The preacher appeared in the pulpit " clad in a blak gown, with a blak hat upon his head, having lyk leicht candelis rond about him." Those who participated in the act of homage alluded to with reverence by Sinclair, said that he was " cauld lyk yce; his body was hard lyk yrn [iron], as they thocht that handled him; his faice was terrible, his noise lyk the bek of ane egle, gret bournying eyn [eyes]; his handis and legis wer herry, with clawes upon his handis, and feit lyk the griffon, and spak with a how [hollow] voice." No mention is made of the traditional horns and tail, which doubtless were concealed by his clerical habit. They are shown, however, in the woodcut illustrating the contemporary tract.

Agnes Sampson having been duly committed for trial, the Holy Inquisition of Holyrood resumed its congenial labours. The next person examined was that damnable Doctor Fian, " Regester and Secretar to the Devill," who was included in Geillis Duncan's list of conspirators under the style and title of " master of the schoole at Saltpans in Lowthian." He is designed in his indictment as " last duelland [dwelling] in Prestoune " [Prestonpans], and in the *Historie of King James the Sext,* as " schoolmaister at Tranent." Our author describes him as " but a yoong

man." This redoubtable sorcerer is an outstanding figure in the contemporaneous trials, and the sole representative of his sex in the battue of North Berwick. "What can be the cause," asks the royal author of the *Dæmonologie*, "that there are twentie women given to that craft, where there is one man?" of which circumstance he offers the following quaint solution: "The reason is easie, for as that sexe is frailer than man is, so it is easier to be intrapped in these grosse snares of the Divell, as was ower well proved to be true by the Serpent's deceiving of Eva at the beginning, which makes him the homelier with that sex sensine [since then]."

Upon his apprehension at the instance of Miss Duncan, the Doctor had been "used with the accustomed paine" provided for such offences. "First, by thrawing of his head with a rope, whereat he would confesse nothing. Secondly, Hee was persuaded by faire meanes to confesse his follies, but that would prevaile as little. Lastly, Hee was put to the most severe and cruell paine in the worlde, called the bootes; who, after he had received three strokes, being inquired if hee would confesse his damnable actes and wicked life, his toong would not serve him to speake, in respect whereof the rest of the witches willed to searche his toong, under which was founde two pinnes, thrust up into the heade, whereupon the witches did say, 'Now is the charme stinted [stayed]'; and showed that those charmed pinnes were the cause he could not confesse any thing." These removed, the Doctor was released from the boots, which probably had more effect upon him, and was brought before the King at Holyrood, where he confessed in due form, and signed his confession. His statement is perhaps the most marvellous of that strange collection made by James in the course of the inquiry. It is of vast length; it contains matters of which Mr. Podsnap would have highly disapproved as ineligible topics with reference to the cheek of the young person, and a summary of its contents is all that either space or modesty permits. The curious will find it fully set forth in the authorities before cited.

Doctor Fian declared that at the general meetings of the witches he was always present, and acted as "clarke to all those that were in subjection to the Divel's service," in

which capacity he registered their oaths of fealty to the infernal chairman. Unofficially, he had bewitched a gentleman, dwelling near his school at the Saltpans, who was enamoured of a lady on whom his own affections were fixed. Meanly availing himself of his supernatural gifts, he cast a spell upon the favoured rival, who, as the result of his enchantment, once in every twenty-four hours " fell into a lunacie or madness, and so continued one whole hower together," with, it is to be presumed, prejudicial effect on the course of true love. His Majesty, having conceived a desire to witness the spell in operation, forthwith sent for the gentleman, who, on being introduced to the royal presence, suddenly gave " a great skritch, and fell into a madness, sometime bending himself, and sometime capring so directly up that his heade did touch the seeling of the chamber, to the great admiration of his Majestie and others then present." By order of the King, he was bound hand and foot, " untill his furie were past," in which condition he continued for an hour, when he came to himself, stating that he had been " in a sounde sleepe," and remembered nothing of what had occurred at the command performance.

Apropos to this striking example of his powers, the Doctor, with much fairness, then related an anecdote in point, which told somewhat against himself. In pursuance of " his purpose and wicked intent of the same gentlewoman," he had approached her young brother, who attended his school, with the alluring promise " to teach him without stripes " during the rest of his curriculum, if the boy would bring his preceptor three of his sister's hairs. The intelligent lad at once closed with an offer so advantageous, and, " taking a peece of conjured paper of his maister to lap them in," set forth with a light heart to fulfill his part of the bargain. But the task proved less easy than he imagined. At the first essay, the damsel, aroused from her sleep, " sodainly cried outt " to her mother, who, on learning the cause, " having a quicke capacitie, did vehemently suspect Dr. Fian's intention, by reason she was a witch of her self." She therefore was " very inquisitive of the boy " as to his purpose, " and the better to know the same, did beate him with sundrie stripes." The injured lad made a clean breast of the

matter; and his mother, "thinking it most convenient to meete with the Doctor in his owne arte," clipped off three hairs from "a young heyfer," wrapped them in the magic paper, and instructed her son to deliver them to his master, which he duly did. The Doctor, so soon as he had received the hairs "went straight and wrought his arte upon them," and thereafter, it being the Sabbath day, repaired to church. No sooner had he done so, however, than "the heyfer cow, whose haires they were indeede," appeared at the church door, "and made towards the schoole maister, leaping and dauncing upon him, and following him furth of the church and to what place soever he went," to the great scandal of the congregation. One of the woodcuts before-mentioned depicts the singular scene. How the Doctor, thus hoist with his own petard, rid himself of the embarrassing attentions of this new Pasiphæ is not recorded. The incident, we are told, established his reputation "for a notable conjurer"—and little wonder.

His examination concluded, Doctor Fian was, "by the maister of the prison, committed to ward, and appointed to a chamber by himselfe." There he expresed great contrition for his "wicked wayes," renounced the Devil and all his workes, and seemed newly converted towards God. The following morning he announced that Satan himself had appeared to him in the night, "all in blacke, with a white wande in his hande," who demanded of him, "If hee woulde continue his faithfull service, according to his first oath and promise made to that effect?" But the Doctor stood firm in repudiation of his former allegiance, saying, "Avoide, Satan, avoide! for I have listened too much unto thee, and by the same thou hast undone me; in respect whereof I utterly forsake thee." "Once ere thou die thou shalt bee mine," cried the Fiend, with an eye to the gallery; and, breaking his white wand, immediately vanished. Throughout the day Doctor Fian continued in this edifying state, greatly to the moral improvement of his keepers, but, such is the instability of our fallen nature, no sooner had night come than the penitent, having stolen the keys of his chamber and of the prison doors, "fled awaie to the Saltpans," the scene of his old transgressions.

James was justly annoyed; he had expended much

learning, time, and trouble upon the interesting convert, and was loath to let the Devil win the odd trick after all. He at once "sent publike proclamations into all partes of his lande" for the recovery of this brand from the burning, and the Doctor, after a "hot and harde pursuite," was retaken and brought before him. What were His Majesty's feelings, when the audacious schoolmaster solemnly denied the truth of all that he had formerly declared! James, in his wisdom, perceiving that the prisoner "had entered into newe conference and league with the Devill his maister," was determined that there should be no mistake this time; he commanded the unfortunate wretch "to have a most straunge torment," apparently devised to meet the special circumstances of the case. "His nailes upon all his fingers were riven and pulled off with an instrument called in Scottish a Turkas, which in England we call a payre of pincers, and under every nayle there was thrust in two needels over even up to heads." Despite this abominable treatment, the Doctor "never shronke anie whit." So in pursuance of His Majesty's pleasure he was "convaied againe to the torment of the bootes, wherein hee continued a long time, and did abide so many blowes in them that his legges were crusht and beaten together as small as might bee; and the bones and flesh so bruised that the bloud and marrow spouted forth in great abundance, whereby they were made unserviceable for ever." Pretty well, this, for the humane and gentle James of certain bland historians! But, notwithstanding all these grievous pains and cruel torments, the poor man "utterly denied all that which he before avouched; and would say nothing thereunto but this, that what hee had done and sayde before *was only done and sayde for fear of paynes which he had endured.*" The italics are the present writer's. But this explanation did not suit the royal book—the *Dæmonologie* was the ripe fruit of these experiments—and Doctor Fian, or what was left of him, was arraigned, condemned, and adjudged to die the horrid death "according to the lawe of that lande provided in that behalfe." Unable to walk, the unhappy schoolmaster was taken in a cart to the place of execution, and having been first strangled, "hee was immediately put into a great fire, being readie provided for that purpose,

and ther burned in the Castle Hill of Edenbrough, on a Saterdaie, in the ende of Januarie last past, 1591."

Lest it be supposed that the anonymous treatise, from which these particulars are taken, was the work of some spiteful detractor of the good King, the concluding remarks of the author sufficiently show that he was on the side of the angels. To meet the criticism of any scoffers who, knowing James's scrupulous regard for his own safety, should doubt that His Majesty would hazard himself in the presence of such specialists in the black art, he observes that the King was well known to be the child and servant of God and the Lord's anointed, they but the Devil's servants and vessels of God's wrath; and that "his Highnesse caried a magnanimous and undaunted mind, nor [was] feared with their inchantmentes, but resolute in this, that so long as God is with him, hee feareth not who is against him."

It should, of course, be borne in mind that King James's theories concerning witchcraft were held in common with the wisest of his contemporaries, but, unfortunately for his subjects, the despotic power which he possessed enabled him to put these into practice on a princely scale. Fifty years later, another philosopher, compared with whose writings the fantastic exercises of the royal pedant are as muddy ale to old rare wine, wrote in his *Religio Medici:* "For my part, I have ever believed, and do now know, that there are Witches: they that doubt of these, do not onely deny *them,* but Spirits; and are obliquely and upon consequence a sort not of Infidels, but Atheists." And did not that wise physician of Norwich, on the trial of two reputed witches at Bury Assizes before Sir Matthew Hale in 1664, turn the scale against those miserable women by his expert testimony to the possibility of their guilt? If such were the opinions of Sir Thomas Browne, who, in this regard, is he that condemneth the Scottish Solomon?

Certain additional particulars as to the doings of Satan and his crew at North Berwick Kirk on Hallow-e'en are contained in the indictments upon which the prisoners were severally tried and the verdicts whereby they were convicted. Doctor Fian was found "fylit" (guilty) of twenty distinct charges of witchcraft, some of which may

be briefly mentioned. While lying in his box-bed in the schoolhouse of Prestonpans, he was "souchand athoirt the eird" (blown violently over the ground) to the place of meeting, where, with the rest, he paid homage to his master in common form, during which ceremony the candles in the church, appropriately enough, burned blue. Satan thereafter entered the pulpit and preached a sermon of "dowtsum" orthodoxy upon the words, "Many comes to the fair, and buys not all wares." It would have been interesting to know his application of the text. He admonished his hearers to draw no unfavourable inference as to the *bona fides* of the preacher from his repellant aspect, which he freely adimtted was somewhat "grymme," assuring them that as a master he would prove better than his looks, and that so long as they served him faithfully, they should never want nor ail anything nor ever "latt ane teir fall fra thair ene." The last words of promise have reference to the popular belief that a witch, having once renounced her baptism, could weep no more on earth—"threaten and torture them as yee please," as James complained in his *Dæmonologie,* with this characteristic fling at the sex: "albeit the women kinde, especially, be able otherwaies to shead teares at every light occasion when they will, yea, although it were dissemblingly, like the Crocodiles." The diabolic peroration was as follows:—"Spair nocht to do evil, and to eit, drink, and be blyth, taking rest and eise," a philosophy of life which, it is to be feared, still finds many followers. At the conclusion of his address, the preacher indicated, as suitable for violation, certain graves in the churchyard; these were accordingly rifled by his disciples, the witches dismembering the corpses "with their gulleis" (clasp-knives), which done, he "wes transportit without wordis."

Further charges describe Doctor Fian as skimming over the sea "in ane boit" in company with the lady members of the band; with being in foreknowledge of "the lek that strak up in the Quenis schip," as predicted to him by the Devil; raising of "wyndes" by means of the enchanted cat while James was on the high seas; and arranging with Satan to cause "ane mist and caste the Kinge's Majestie in Ingland," to effect which purpose the

Devil "took ane thing lyke to ane fute-ball, quhilk apperit to the said Johnne lyke a wisp [of straw] and caist the same in the see, quhilk causit ane vapour and ane reik to ryis." When stalking the sacrificial cat at Tranent, the Doctor was borne above the ground with great swiftness and flew, "as lychtlie as the catt hir selff," over a dyke or wall higher than "he was able to lay his hand to the heid of," informing sundry curious neighbours, who inquired "to quhat effect he chassit the samin?" of the reason for behaviour so unbecoming a parish schoolmaster, to wit, that he acted by instructions of Satan. In addition to these deeds of darkness, were certain others of a dye less deep; such as having played fast and loose with the affections of a local lady, who, being described as a "wedo," ought to have known how to take better care of herself; burning down the house of his landlord, who had given him offence by refusing to execute certain necessary repairs; causing four magical candles to burn between his horse's ears as he rode home "under nycht" from a supper party—a useful, if illegitimate device, of which there is a quaint woodcut in our pamphlet; and carrying a kind of Fortunatus' purse, containing "modewart feit" (mole's feet), given to him by Satan as a token of regard. Of these and divers other "poyntis" of witchcraft, Doctor Fian, being convicted on 26th Deecmber 1590, as the record bears, was duly "brynt."

The most important of these witch trials, that of the Wise Wife of Keith, took place before the Justice-Depute on 27th January. Agnes Sampson's indictment contains no less than fifty-three separate counts, many of which, though curious and interesting, are beside our present purpose. The fiftieth deals fully with the charges arising out of the "Conventioun" at the Kirk of North Berwick. The night before the meeting, Satan, in the likeness of a man, met her in the fields near her own house at Keith, "betwixt fyve and sax att evin," she being then alone, and commanded her attendance "the next nycht" at the rendezvous, whither she duly went on horseback, "convoyit by her stepson, John Couper, "and lychtit at the kirkyard." This seems a more likely story than her previous version of the voyage thither by sieve. The

unholy dance was performed in the churchyard to Geillis Duncan's obligato on the Jew's "trumpe," and the revels were led by Doctor Fian, "missellit" (muzzled, *i.e.*, masked), though why he should have been so does not appear. A list of guests is given, amounting to over a hundred, "quhairof thair wes sax men and all the rest wemen," which does not tally with Miss Duncan's account of the company. First the women paid homage to their host, and then the men; the former turning "widdershins" (contrary to the course of the sun) six, and the latter nine times. Doctor Fian, as master of ceremonies, blew open the church door and "blew in the lychts," which were like great black candles stuck round about the pulpit. The Devil, "lyke ane mekle blak man," then appeared and called the roll, everyone answering "Heir, Sir," to their names. During these preliminaries, Satan, probably bored by this routine work, infringed the infernal etiquette observed on such occasions by calling one Mr. Robert Grierson by his Christian name. This slip was strongly resented by the meeting, "they all ran hirdie-girdie, and wer angrie"; for it had been arranged that Mr. Grierson "should be callit Rot. the Comptroller, *alias* Rob the Rowar. This gentleman, as we know from Miss Duncan, was by profession a skipper, and his technical ability must have proved of service to the ladies on their precarious voyage. The oaths of fealty were then administered and the graves violated, as before narrated. In dismembering the corpses, only the joints of the fingers and toes were taken; and "the said Agnes Sampsoune gatt for hir pairt ane winding-scheit and twa jountis [joints], quhilk sche tint negligentlie [inadvertently lost]." As appears from other items of the indictment, the bones of the dead thus removed were dried and ground by the witches into "inchantit powder" for purposes of their craft, according to the familiar practice of the Giant Blunderbore. The Devil wore a gown and hat of black; John Fian was ever nearest to him, "att his left elbok"; and another warlock, named John Gordoune, *alias* Jokkie Graymeill, "kepit the dur." The latter gentleman, described by Sir James Melville as "ane auld sely pure plowman," doubtless paid dear enough for the distinction.

The remaining fifty-two crimes of which Agnes Sampson was "fylit and convict" chiefly consist of curing by her "charmes" divers afflicted persons, who, in gratitude for their recovery, sent their benefactress to the fire by testifying to the efficacy of her spells. The indictment quotes two of the doggerel prayers, described as "develisch," used by her "for hailling of seik folkis," which to modern ears are damnable only in respect of metre. Other charges concern her skill, when summoned to some serious case, in foretelling the death or recovery of the sufferer. A consulting specialist might in those days form a prognosis, but expressed it at his peril. In one delightful instance, Agnes told a certain man, who had called her in to his dying wife, that his lady could not recover unless the Devil were raised; whereupon the husband, "being ane spairand [saving] man, wald nocht wair [disburse] expensse," and as the sorceress refused to summon Satan for nothing, the woman died. In another case, Agnes was convicted of healing by witchcraft one John Thomson of Dirleton, who "remanit crepill nochtwithstanding thairof"—which seems equally hard on patient and physician. She was more successful with the Guidwife of Camroun, "that gaid upon stiltis" from birth, literally setting that lady on her feet again. She cured the Laird of Redhall, whom the surgeons had "gevin owir," which must have annoyed the Faculty. Among those who had consulted the sybil were many persons of position, the Ladies Rosslyn, Hermiston, Torsance, and Kilbaberton, "auld Lady Edmestoune," with the Sheriff's wife of Haddington, are named as having derived benefit from her heretical treatment. She also ensorcelled "ane lytill ring" to be used by the Countess of Angus, a lady suspected of having removed her husband by "negromancie," perhaps because her great-grandmother, the Lady Glamis, was burnt for alleged witchcraft in 1537.

Agnes was also found guilty of an act of supernatural piracy. She and her accomplices put out from North Berwick "in ane boit lyke ane chimnay"—the first recorded instance of steam navigation—the Devil, "lyke ane ruk [rick] of hay," acting as pilot, and boarded a vessel named *The Grace of God*. Unseen by the

"marineris," the ladies made free of the ship's stores and drank all the available "wyne," which done, they re-embarked for the shore, and the Devil "raisit ane evill wind, he being under the schip, and causit the schip perisch."

The sentence pronounced "by the mouth of James Scheill, dempstar," upon the Wise Wife of Keith in respect of this formidable libel was, that she be taken to the Castle Hill of Edinburgh and there bound to a stake and "wirreit" [strangled] until she was dead, "and thairefter hir body to be brunt in assis" [ashes], and her goods confiscated to the Crown. Moyses, the contemporary annalist, has noted that she died well.

The reader may remember the two gentlewomen, Barbara Napier and Euphame MacCalzean, denounced by Geillis Duncan in her famous *dossier*. The former, designed as "spous to Archibald Douglas, burgess of Edinburgh, brother to the Laird of Carschoggill," was tried on 8th May 1591 for complicity in the affair of North Berwick. The chief point of interest connected with her trial is that King James, in a letter to the Justice-Clerk under his own hand, himself prescribed the terms of the death-sentence to be pronounced against her (which are similar to those in the case of Agnes Sampson), she having been acquitted by a majority of the jury! As this was a bad precedent, such of the jury as had voted for Not Guilty were themselves brought to trial "for manifest and wilfull errour committit by thame" in so doing. His Majesty presided in person; the unfortunate jurymen, foreseeing the result of further resistance, submitted "*simpliciter* in his highness' will," and pleaded that their error had been ignorant, not wilful; whereupon James was graciously pleased to pardon their offence. This was the only jury who allowed reason or conscience to interfere with their duty to their King, and the incident throws a curious light on the administration of justice during the happy reign of that wise and beneficent ruler.

The trial of Euphame MacCalzean, the last of the series, took place in the Tolbooth of Edinburgh on 9th June. This lady was the only daughter and heiress of Thomas MacCalzean, Lord Cliftonhall, one of the Senators of the

College of Justice, "a person," says Pitcairn, "distinguished alike for his general erudition and attainments, by the depth of his legal knowledge, and by his talents as a statesman." How the daughter of so eminent a judge became mixed up in this amazing business is by no means clear, but Pitcairn suggests, as a possible explanation, that she was a staunch adherent of the Auld Faith, no lover of King James or the New Religion, and a partisan of the turbulent Francis Stewart, Earl of Bothwell, that constant troubler of the King's peace, then confined in the Castle of Edinburgh on divers charges of witchcraft. Be that as it may, her father was not concerned in the affair, having died ten years before her trial. It is instructive to note that upon her conviction the whole of her large property was "escheit to our Soverane Lordis use," and that James who, according to his biographer, Weldon, "was very liberal of what he had not in his own gripe, and would rather part with £100 he never had in his keeping, than one twenty-shilling piece within his own custody," bestowed the valuable estate of Cliftonhall upon his youthful favourite, Sir James Sandilands of Slamanno, as later he gave Raleigh's rich manor of Sherborne to Robert Ker, that attractive young Scot.

"As a striking picture of the state of justice, humanity, and science in those times," says Arnot, "it may be remarked that this Sir James Sandilands, a favourite of the King's (*ex interiore principis familiaritate*), who got this estate which the daughter of one Lord of Session forfeited on account of being a witch, did that very year murder another Lord of Session in the suburbs of Edinburgh, in the public street, without undergoing either trial or punishment." This judicial victim was John Grahame, Lord Hallyards, a Senator of the College of Justice, who was shot dead by Sandilands in Leith Wynd. The views of James and his minions regarding the unalterable rule of right and the eternal fitness of things were in close accord with the philosophy of Tom Jones's mentor, Mr. Square.

The offences with which this lady was charged are no less astonishing than varied. They embrace the attempted poisoning of her husband in the first year of

marriage, to the end that she "mycht gett ane utheir guidman," as a result of which he "brak out in reid spottis," and was compelled to seek safety in France, his disappointed spouse bidding "the ffeind ga with him"; bribing with her own jewels her daughter's lover to transfer his affections to herself, and, on his declining either to do so or to return the gifts, attempting to recover these by witchcraft; destroying by the same means the lives of several persons, including her father-in-law; and finally, participating in "the Conventicle att North-Berwik Kirk," and the diabolic doings incident thereto, with which the reader is already familiar. This appears to have been the only one of these cases in which the prisoner had, so to speak, a run for her money. Her defence was conducted by six counsel, and the trial occupied four days; but, unfortunately, no record of the pleadings, or of the evidence adduced, has been preserved. The jury deliberated "all that nycht," and before they arrived at a verdict of guilty, their Chancellor or Foreman was "chasit" from the assize, presumably because he favoured an acquittal. The sentence pronounced upon the luckless Euphame was the severest known to the law: "to be takin to the Castel-hill of Edinburghe, and thair bund to ane staik and brunt in assis, *quick*, to the death." Her fellow-sufferers, as we have seen, were not thus burnt alive, but were "wirreit" before being committed to the flames, the usual penalty for dealing with the Devil. Doubtless, in view of the lady's' wealth and station, James the Just was anxious to avoid in her case any appearance of undue leniency.

What further entertainment the witch-drive of North Berwick afforder the Royal connoisseur we do not know, for from the date of this trial to 1596 there is a hiatus in the Justiciary Records, the volume of the Books of Adjournal for that period having disappeared; but there is no reason to doubt that many of the "innumerable others" of Geillis Duncan's list met a similar fate. Sir Walter Scott, writing in 1830, states that recent alterations upon the Castle Hill disclosed the ashes of numbers who had perished in this manner, of whom a large proportion must, in his opinion, have been executed after 1590, when the great discovery of witchcraft was made.

"During the reign of James VI.," says Pitcairn, "hundreds of helpless creatures were destroyed under form of law"; and as the procedure of the High Court of Justiciary was not expeditous enough to keep pace with His Majesty's vengeance, James hit upon the ingenious device of granting Royal Commissions throughout the country with powers to justify witches to the death without further formality. Of these Commissions no less than fourteen were granted in a single day. Small wonder, therefore, that Satan considered such a sovereign "the greatest enemie hee hath in the world."

How are we to explain this sixteenth century Reign of Terror, this carnival of credulity and cruelty? It will be noted that, excepting Euphame MacCalzean, whose case, as we have seen, was peculiar in more senses than one, the victims were convicted upon their own confessions, in each instance extorted by means even more diabolical than their pretended crimes. Sir George Mackenzie, Lord Advocate to Charles II., and the greatest criminal lawyer of his time, though holding the existence of witchcraft an axiom, has recorded, as his personal experience in the conduct of such trials, that in every case which he personally examined, the confessions of the culprits were either the result of official torments, deprivation of food and sleep while in prison, or had been frightened out of silly creatures by ministers indiscreet in their zeal. He maintained that of all crimes witchcraft, in order to conviction, required the clearest relevancy and most convincing probation. "And I condemn next to the witches themselves," he writes, "those cruel and too forward judges who burn persons by thousands as guilty of this crime." Yet posterity, which brands Sir George's memory with an ugly adjective, still credits King James the Sixth with all the wisdom of Solomon.

Of the part played by that monarch in this extraordinary drama, Mr. Hill Burton remarks: "His intense selfishness and vanity made him hard, relentless, and savage towards those who gave themselves up to the awful crime of plotting against their anointed King: and the criminal records of Scotland are marked by many dark traces of his sanguinary vindictiveness." Even the judicial

methods which we have been considering pale before the grosser atrocities disclosed upon the trial of the Master of Orkney, for consulting with witches, in 1596. The cruelties practised upon his alleged accomplices to ensure the Master's conviction would, says Pitcairn, "disgrace the most barbarous tribe of Indians." It is satisfactory to find that in this case His Majesty did literally out-Herod Herod to no purpose, and that the jury were strong enough to mark their appreciation of the value of such evidence for the Crown by returning a unanimous verdict of acquittal. But the witnesses, having furnished the required confessions were already justified. James had seen to that.

Note.—Readers interested in the attaching subject of Scottish witchcraft in general, and in the Witches of North Berwick in particular, may consult, with much entertainment and advantage, an admirable fiction dealing with these matters, entitled: *Barbara Napier,* by Miss Janet M. Smith (Edinburgh: 1936), which surpasses in power of presentment even the vivid witch stories of the late Mr. Brodie Innes: *For the Soul of a Witch* and *The Devil's Mistress.*

BARGARRAN'S DAUGHTER

Behold, how great a matter a little fire kindleth!

—*St. James.*

At the close of the seventeenth century, when landowners were still regarded as respectable members of the community, there lived upon the ancient estate of Bargarran one John Shaw, a man of credit and renown in his native shire, whose ancestors had held the lands for nigh three hundred years. The house of Bargarran, a fine specimen of the old Scots mansion, with crow-stepped gables and strong walls capable of defence, stood on the south bank of the Clyde, in the parish of Erskine and county of Renfrew, near Bishopton and within easy reach of the flourishing town of Paisley. At the time in question the family consisted of the laird, his wife, *née* Christian M'Gilchrist, and their five children, John, James, Christian, Elizabeth, and Jean. Christian, the third child and eldest daughter, then eleven years of age, is described in the contemporary account aftermentioned as a smart lively girl, and of good inclinations. But this is to beg the question; for while her smartness may be admitted and her liveliness is beyond dispute, whether or not she in fact was well-inclined is another story.

The circumstances of the strange drama in which she played the *jeune première* were given to the public in a work entitled: "A Narrative of the Sufferings and Relief of a Young Girl, Strangely Molested by Evil Spirits and their Instruments, in the West: collected from Authentic Testimonies, with a Preface and Postcript. Containing Reflections on what is most Material or Curious, either in the History or Trial of the Seven Witches who were condemned and Burnt in the Gallow Green of Paisley." This Narrative was originally published by Watson of Edinburgh in 1698, and a second edition was issued in 1775 at Paisley, where it has since been reprinted, with additional matter, in 1809 and 1877, under the title of

A History of the Witches of Renfrewshire. The particulars of what C. K. Sharpe calls "this comic tragedy," as collected by John M'Gilchrist, town-clerk of Glasgow (perhaps a relative of Mrs. Shaw), form the basis of the Narrative. It was written by Francis Grant, an Edinburgh advocate, later created a baronet by Queen Anne, and now better known by the title of Lord Cullen, assumed by him on his elevation to the Bench in 1709. Apart from the authorship of this remarkable tract, Lord Cullen's name will be remembered by lovers of Edinburgh tradition as that of Deacon Brodie's predecessor in the Lawnmarket Close, successively named from its judicial and criminal occupants, and as the father of Sir William Grant of Prestongrange, the King's Advocate so familiar to readers of *Catriona.*

The bewitchment of Christian Shaw was on this wise. A petty domestic incident which occurred at Bargarran House on Monday, 17th August 1606, fired the long train of circumstances that led in the following year to the apprehension of twenty-four, and the death of seven persons. On that day Christian, smart little girl as she was, detected Katharine Campbell, one of the maid-servants, in the act of "stealing," *i.e.,* drinking some milk —not, one would think, a grave matter in a country house. Christian, however, thought otherwise, and told her mother of the dark deed she had witnessed, whereupon Katharine, who is described as a young woman of a proud and revengeful temper, much addicted to cursing and swearing upon any like occasion, did, "in a most hideous rage, thrice imprecate the curse of God upon the child, and at the same time did utter these horrid words: 'The devil harle [drag] your soul through hell!'" Upon the following Friday an old woman of the neighbourhood, named Agnes Naesmith, said to have been of a malicious disposition and prone to threatenings, "which sometimes were observed to be followed with fatal events," came to the house of Bargarran, and meeting Christian in the court, asked after the health of Mrs. Shaw and a recent addition to the family. With characteristic smartness, Christian rudely replied, "What do I know?" The next night, Saturday, 22nd August, the girl, having gone to bed in her usual health, began to struggle in her sleep

and cry, " Help, help! " She then suddenly rose, and to the " admiration " of her parents and others present, flew over the top of her resting bed with such violence that her skull would have been fractured against the opposite wall, but for the promptness of a bystander, who, supported by a door at her back, intercepted the flying child. When put into another bed, Christian became stiff and insensible, remaining to all appearance dead for the space of an hour; on regaining consciousness, she complained of severe pains throughout her body, and for forty-eight hours was unable to sleep. During eight days thereafter she frequently lost the power of speech, her body became bent like a bow, so that she rested only on her head and heels, the fits passing off in " a swerff or short deliquium." In the interval she appeared to be sensible and perfectly well. About the middle of September her seizures assumed a different form. Christian seemed now to fight and struggle with some unseen assailant, so violently defending herself from these invisible assaults that four strong men were scarcely able to restrain her. When anyone touched her " she did cry and screech with such vehemence as if they had been killing her, but could not speak."

Meanwhile, her parents, alarmed by these symptoms, invoked professional aid from Paisley; whence came two apothecaries, who viewed the invalid, took blood, applied several things without any discernible effect upon the patient, either to the better or worse, and went away again —a regrettable but not unprecedented episode. " Physicians was in vain," as Mr. Bunsby observed on another occasion. Some days afterwards the fits so changed their character that Christian " got speaking during the time of them." The first use she made of her recovered power was to assert that Katharine Campbell and Agnes Naesmith, then present, as she alleged, " were cutting her side and other parts of her body, which parts were in that time violently tormented," and she refused to believe that these women were not equally visible to those about her. This phase having lasted for a month, her parents took her to Glasgow to consult the celebrated Dr. Brisbane, son of the minister of Kilmalcolm, who, with Dr. Marshall of that city, had the case under observation

for ten days, and at a later stage the result of their observations was embodied in a joint report, to which I shall presently refer. She seems to have benefited by their treatment, but on her return to Bargarran the fits recurred as formerly, with the additional symptom that when she essayed to pray, her tongue was either withdrawn into her throat or protruded to a wonderful length. The girl's afflicted parents again set out with her for Glasgow and Dr. Brisbane, but on the way thither, at the house of her grandmother, Lady Northbar, in the neighbouring parish of Inchinnan, Christian "did thrust or spit out of her mouth parcels of hair, some curled, some plaited, some knotted, of different colours, and in large quantities." She continued to perform this unpleasant feat during the rest of the journey by boat, and at Glasgow, on 12th November, in the presence of the doctors, she varied her hair-producing exploits by ejecting from her mouth—possibly as more in keeping with her surroundings—"coal cinders about the bigness of chestnuts, some whereof were so hot that they could scarcely be handled." Not content with these singular achievements, the patient began to bring forth great quantities of straw, "though but one straw at once, folded up together, which, when put out, returned to its length, was found to be both long and broad, and it was remarkable that in one of them there was a little small pin." Incited to further efforts by the professional admiration with which these symptoms were received, Christian extended her repertoire. "Bones of various sorts and sizes, as bones of fowls, and small bones of the heads of kine, and then some small sticks of candle fir (a sort of fir in the country that burns like a candle), one of which was about three inches long," either fell voluntarily or were extracted with effort from her mouth. Less nice than her prototype of the fairy-tale, whose dainty lips let drop pure pearls and precious gems, the damsel further produced matter valuable only for agricultural purposes, the "nauseating taste and vile relish whereof did necessitate her still to rinse her mouth with water" after its ejection. Wildfowls' feathers, a stone "which, in the judgment of beholders, had been passed by some persons [*sic*] in a gravel fit," other stones of less

abnormal origin, "a whole nut of gall (wherewith they use to dye and to make ink)," lumps of candle, and egg-shells, are mentioned among the productions which, as need not surprise us, caused many of the citizens of Glasgow frequently to visit her.

Thus far the reader would have little difficulty in dismissing the whole affair as the work of a precocious impostor. But here we are met by the sworn testimonies of Dr. Brisbane and his colleague Dr. Marshall, physicians of eminence and skill, the fairness with which they state the facts showing that they were neither fanatics nor fools. Dr. Brisbane depones that when he first saw the girl she appeared so brisk in motion, so florid in colour, so cheerful, and, in a word, every way healthful, that he could hardly be persuaded she had need of physician. After ten minutes' conversation, however, she bounced out of her chair, advertising that she was about to be seized with a fit, and was forthwith taken with horrid convulsive motions to an accompaniment of groans, which shortly turned into expostulatory mourning against some women, particularly Campbell and Naesmith. The doctor, considering the symptoms as reducible to the freaks of hypochondriac melancholy, prescribed for the case as such, with the result that she returned home apparently cured. But on her second visit to Glasgow he found her worse than ever. He was frequently with her during her strange sickness, and observed her narrowly, but was confident that she had no visible correspondent to "subminister" the various foreign substances before described. As to whether an artful child could not herself have subministered them, he expresses no opinion. These things, he remarks, were put out of her mouth without being wet, "nay rather as they had been dried with artifice," and the famous cinders were actually hot—above the natural warmth of the body. During the fits the patient was bereft of speech, but on the upcasting of the trash above-mentioned she was able to denounce her tormentors. "Were it not for the hair, straw, etc.," concludes the doctor, "I should not despair to reduce the other symptoms to their proper classes in the catalogue of human diseases"; in his opinion, hysteria would account for everything except that phenomenal output.

Dr. Marshall concurred with Dr. Brisbane, adding some further details from his own observation of the case. In one of her seizures, the girl, having fallen as if thrown down with violence by another, cried out, "Katie [Katharine Campbell], what ails thee at me? I am sure I never did thee wrong; come let us gree; let there be no more difference betwixt us; let us shake hands together"; to which friendly overtures her implacable persecutor declining, it appears, to respond, she remarked, "Well, Katie, I cannot help it, ye will not gree with me," and immediately fell into convulsions lasting half-an-hour. On her recovery, she explained that she had seen Campbell, Naesmith and many more in the chamber, and that Campbell had been about to thrust a sword into her side, which naturally made her wish to place their mutual relations on a less painful footing.

The Narrative records other similar discussions of Christian with the invisible Katharine, which, for those present, must have possessed all the mysterious charm of one-half of a conversation by telephone as overheard by a third party. In the course of these, Christian, being in bed, would call for Bible and candle, and after reading aloud long passages from Scripture, would expound the same for behoof of her astral enemy, generally "waling" her favourite portion from the Book of Job. "Now, Katie, what thinkest thou of that?" said she, apropos of Satan's failure utterly to subdue the long-suffering patriarch; and, again, when dealing with the case of Dives, "I'll let thee see, Katie, there is no repentance in hell." Thus would she continue for hours at a time, her remarks, as reported, extending to four closely printed pages of the Narrative, until (which is not surprising) her human audience could bear no more, and offered to pull her Bible from her; whereupon she uttered horrid screeches and outcries, saying, with reference to their efforts, that she would keep the sacred volume in spite of all the devils in hell—a forcible, but rude way of putting it. "Although she was a girl of a pregnant spirit above her age," observes Lord Cullen, "and withal had a pretty good understanding, above what might be expected of one of her years, of the fundamental principles of religion taught in the Catechisms, yet we doubt not in

so strong a combat the Lord did, by His good spirit, graciously afford her a more than ordinary measure of assistance, both now and at other times, in the like debates." Thus his Lordship accounts for an alleged knowledge of Scripture in this child of eleven which would have done no discredit to a doctor of divinity.

On 8th December Christian was taken home to Bargarran, where, after a brief respite for all concerned, she resumed her disagreeable habits, saw the devil in prodigious and horrid shapes, threatening to devour her, underwent all manner of bodily contortions, and denounced by name as collaborators in her tormenting, divers other persons resident in the district. On one occasion, as she clutched at the clothes of some unseen antagonist, the bystanders heard a sound of rending and tearing, and saw in the damsel's hands pieces of red cloth, of a sort unknown to any in the household. So she continued until January 1697.

Meantime the Rev. Andrew Turner, minister of Erskine, had been greatly concerned at this diabolic possession of a member of his flock. He had set up the exercises of fasting and prayer in the afflicted household every Tuesday, but finding his pious prescription of none avail, he brought the case before the Presbytery of Paisley. The Presbytery, "being deeply sensible of the sad circumstances of that damsel and family," ordered the continuation of the above exercises for what they were worth, appointed Mr. Turner, with Mr. Brisbane of Kilmalcolm, to visit Bargarran, prepare a report, and thereafter to proceed to Edinburgh and lay the matter before the Lords of His Majesty's Privy Council, "in order unto their obtaining a Commission for putting those who are suspected to be her tormentors to a tryall"; and "in their way thitherward" to get from Dr. Brisbane at Glasgow "a declaration of his sentiments of the foresaid trouble, in order to their more easy obtaining a Commission, as said is." On 19th January a warrant was issued by the Privy Council, on the narrative that there were pregnant grounds of suspicion of witchcraft in the shire of Renfrew, especially from the afflicted and extraordinary condition of Christian Shaw, daughter of John Shaw of Bargarran, appointing Alexander, Lord Blantyre, Sir

John Maxwell of Pollock, Sir John Shaw of Greenock, five other local magnates, and the Sheriff-Depute of Renfrew, as Commissioners of Witchcraft, with power to interrogate and imprison suspected persons, to examine witnesses (but not upon oath), and to report before the 10th of March ensuing. Lord Blantyre was the principal personage in the county; Sir John Maxwell was the son of that Sir George Maxwell of whose "Troubles met with from the Devil and his Haggs" in 1676 Sinclair gives so entertaining an account; and Sir John Shaw, as appears from Crawfurd's *History,* was a kinsman of the laird of Bargarran.

The Presbytery appointed three ministers to wait upon the Commission, one being the Rev. Patrick Simpson of Renfrew, a direct ancestor of Mr. Andrew Lang, as the latter once informed me. Thereafter one or other of these reverend gentlemen was constantly in attendance at Bargarran House, ministering to this damsel grievously vexed with a devil. The office was no sinecure. At nights the household would be startled from slumber by horrid shrieks and outcries proceeding from the court, and when it was suggested, as a likely explanation, that these emanated from "some wild beast or other"—such being, as appears, commonly met with in Renfrew in those days—Christian said "they were mistaken, for it was Maggie." Who Maggie was, we shall see in the sequel. Fortunately, as it seemed, for Agnes Naesmith, it occurred to someone to confront her with her supposed victim. The old woman, on being introduced to the invalid's chamber, expressed a pious hope "that the Lord of heaven and earth might send the damsel her health, and try out the verity," *i.e.,* of the charges she had so falsely made. After this interview Chrisitan declared that, though Agnes had formerly been very troublesome to her, yet from that time forth she did no more appear to her as her tormentor, but, on the contrary, as she apprehended, defended her from the fury of the rest. Agnes, however, despite her prudence, was not yet out of the wood. In view of the happy issue of this experiment it was proposed that Katharine Campbell should pay a similar visit to the sick-room, which that outspoken handmaid, less politic than the sagacious Agnes, could by

no means be prevailed upon to do so, and so far from praying for the recovery of the sufferer, she cursed the well-meaning mediators and the whole family of Bargarran, adding, with singular disregard of consequences, "The devil let her [Christian] never grow better, nor any concerned in her be in a better condition than she was in, for what they had done to her [Katharine]." Some show of irritation was, in the circumstances, natural; but Katharine had to pay dearly for its expression. The Sheriff-Depute, upon the application of Bargarran himself, forthwith committed her to Paisley prison, and from the date of her incarceration Christian said that Katie troubled her no further, except once or twice, at which times it was found, after inquiry, that she was not in the Tolbooth, but either in the jailer's house, or had liberty granted her to go to church. On her apprehension Katharine was searched, and in her pocket was found "a ball of hair of several colours"; this was promptly burnt, after which time the damsel put no more hair out of her mouth.

Chrstian, however, continued her other performances with unabated vigour, and the attendant ministers were kept busy. She uttered horrid screeches, sang, leapt, danced, and laughed with preternatural vehemence, tore down the hangings from her bed, and rent her own raiment, "not leaving so much as her smock upon her body." She complained that she was beset in her bed by cats, ravens, owls, and horses, at which times those about her declared that they saw "something," presumably of the smaller species named, moving under the bedclothes. She also developed what the Narrative describes as flying fits, in which she was "carried away with a sudden flight, with such a swift and unaccountable motion that it was not in the power of anyone to prevent her—her feet not touching the ground, so far as any of the beholders could discern." Such levitations were common experiences in the lives of the Saints. Her parents and the minister on duty were constantly employed in pursuing her, now to the roof of the house, now to the cellars, to preserve her from the consequences of these excursions, which, as she explained on recovery, were designed by her enemies to effect her destruction.

She also mentioned a meeting and a feast, which they had spoken of, in the orchard of Bargarran, whereof more anon. The clerical visitors prayed and exhorted in rotation, "albeit, when ministers began to pray, she made great disturbance by idle loud talking, whistling, singing, and roaring, to drown the voice of the person praying. Sometimes she even struck and kicked the reverend orator for the time, "uttering reproachful talk of him, and calling him Dog, etc." Mr. Simpson preached, we are told, many eloquent and powerful sermons, only the texts of which, mercifully, have been preserved. But all to no purpose; so the Presbytery, "considering the great rage of Satan in this corner of the land, and particularly the continued trouble of Bargarran's daughter, which is a great evidence of the Lord's' displeasure being provoked by the sins of the land, so to let Satan loose among us," appointed a day of solemn humiliation and fasting to be duly observed by all congregations within their bounds. Christian was present in church all day on the occasion of the public fast; her behaviour was perfectly normal, except that she predicted the minister would break his neck by falling out of the pulpit, and seemed disappointed when he failed to do so, remarking that the devil, on whose authority she made the forecast, was a liar. The sermon, by the way, was upon that text from Revelations, so favourite a quotation with Mr Toobad in *Nightmare Abbey*.

Early in February the Commissioners opened their inquiry at Bargarran House. Throughout her illness Christian had been steadily adding to the roll of her alleged tormentors. When she spied a neighbour talking to her father in the hall, the unfortunate visitor was straightway denounced as one of them; when an old Highland beggar-man came to the door seeking alms, Christian booked him at once as an emmisary of Satan; and so forth, until the people must have become rather shy of calling at Bargarran. If she could contrive to touch the suspected person she instantly exhibited convulsive symptoms, which was deemed an irrefragable proof of guilt. The Commisioners accordingly made a selection from her list. Among those seized and committed to custody was one Elizabeth Anderson, a girl of seventeen, daughter of a cottar at Southbar, near Bargarran. At first

she most obstinately denied all knowledge of the matter, but being "seriously importuned and dealt with in prison by two gentlemen"—probably members of the Commission—she confessed her guilt as accessory to the bewitching of Christian, and denounced the following persons as actors in the crime:—Alexander Anderson, her father; Margaret Fulton, her grandaunt; John and James Lindsay, apparently her cousins; John Reid, smith at Inchinnan; Katherine Campbell, and Agnes Naesmith. Each of these persons had been denounced at one time or another by Christian Shaw herself, and if Elizabeth Anderson was unaware of the fact, as we are asked to believe, the coincidence is striking indeed. On 5th February, in presence of the Commissioners and ministers, the prisoners were confronted with Christian, when she accused them as her tormentors, and, being severally touched by each, was "cast into intolerable anguishes" seven separate times—one touch one fit. It would have saved trouble for all concerned if the touches had been simultaneous. Katharine's touch produced, as might have been expected, more grievous fits than the rest; whereat even the indomitable Katie herself seemed "damped and confounded." Another member of the Lindsay family, a boy named Thomas, "not yet twelve years of age," was, upon information received, also apprehended and examined. This infant sorcerer was accused by several credible persons of being, literally, a child of Satan, but their evidence was necessarily hearsay, and the mother was not called as a witness. He could fly in the likeness of a crow upon the masts of ships, and by turning *widdershins* (contrary to the course of the sun) could stop a plough, causing the horses to break the yoke. "This he would do upon the desire of anybody who gave him a half-penny." On these and the like flagrant presumptions, the child, protesting his innocence, was committed to custody; but, having been dealt with by the ministers, he confessed that he had made a compact with the devil, whose mark he bore, that he had attended many meetings of the witches, and that his brother and the others delated by Elizabeth as above were equally guilty.

Confession is infectious in such cases, and the ice being thus broken by the juvenile wizard, his fellow-prisoners

hastened to testify to their joint damnation. The Precognition and Report submitted by the Commissioners to the Privy Council of our Dutch deliverer, William III., on 9th March, 1697, contains matters as monstrous as any of the confessions which had so delighted James the Sixth at the great oyer of witchcraft a century earlier. Elizabeth Anderson stated that the devil, in the guise of a black grim man, had long been on visiting terms with her late grandmother, Jean Fulton, who often "desired her to take the gentleman by the hand, being a friend of hers," which Elizabeth did and found it very cold. Distrusting the visitor's intentions, she quited the grandmaternal roof, preferring rather to go a-begging than keep such doubtsome company. By invitation of her father, however, she was led to attend a meeting of witches on the moor of Kilmalcolm, where she met the persons since accused by her, and several whom she did not know. "The foresaid gentleman," as Elizabeth euphemistically terms the Enemy, presided, and to induce her to renounce her baptism, he promised her better meat and clothes than her itinerant profession could afford. "But (as she declared) she would not consent." At a subsequent gathering above the town of Kilpatrick the meeting was adjourned to the neighbouring ferry, where Satan with the rest of the band, upset the ferry-boat, and drowned the Laird of Brighouse and the ferrier of Erskine. Some of the witches had compassion upon the ferryman and would have saved him, "but his mother-in-law [who, for his sins, was of the party] gainstood it, in regard he had expelled her out of his house a little while before." Elizabeth had the artistic sense; this touch of nature could not fail to impress the married members of the Commission. Having dealt with such minor incidents as the destroying of William Montgomerie's child, by strangling it with a "sea napkin," and the roasting in effigy, at a spit on a fire, of the Rev. John Hardy, minister of Dumbarton, the witness came to the matter in hand. Five weeks before, her father took her one night to Barragan's orchard, into which they entered by "a slap in the dyke," where they found the usual company assembled. The devil remarked jocosely that nobody would see them, at which they laughed—presumably darkness gave point to the Satanic jest. At this meeting the

destruction of Christian Shaw was contrived. "Some were for stabbing her with a touck, others for hanging her with a cord, a third sort for choking her, and some intended having her out of the house to destroy her." As the advocates of these divergent views could by no means be brought to agree, after two hours' discussion the devil moved an adjournment, but lest any of the members should be taken before the next meeting, to preclude the possibility of confession, he gave them a piece of an unchristened child's liver to eat. Elizabeth slipped "the eating of it," and the others, having good reason to suspect her loyalty, threatened to tear her in pieces if she betrayed them. They then all disappeared "in a flight," excepting the discreet Elizabeth, who, with wonted propriety, went home "on her foot."

James Lindsay, aged fourteen years, described as "a gley'd or squint-ey'd elf," confessed that he had several times appeared to Christian Shaw, both in Glasgow and Bargarran, with the others that did torment her, and put in her mouth coal cinders, bones, hay, hair, sticks, etc., intending thereby to choke her. He acknowledged that he was frequently at meetings with the devil and witches, particularly those mentioned in Elizabeth Anderson's confession, and concurred generally in the statements of that inpeccable maiden regarding the affair at Erskine ferry, the strangling of Montgomerie's child, the roasting of Mr. Hardy by deputy, and the meeting in Bargarran's orchard. He mentioned a circumstance, however, which had escaped Elizabeth's memory, to wit, the "stiffling" of Matthew Park's child with a cord. Recalled by the Commissioners, that lady perfectly remembered the incident, and said she had preserved the fatal cord as an interesting memento of the occasion. Thomas Lindsay, the boy of unholy parentage, to whose confession I have before referred, further declared that he was privy to the slaying of the children—himself "being below pupilarity"—"only he says the sea napkin with which they committed the fact was speckled." He likewise concurred with Elizabeth as to the meeting in Bargarran's orchard "and what was acted therein; as also anent Mr. Hardy, with this addition, that himself turned the spit whereon the picture was roasted." The Commissioners in their report drew

attention to the fact that these confessions were severally emitted by the prisoners, "without communication with, or knowledge of, another's confession," a statement which, in the circumstances, I take leave of doubt.

In all the confessions mention was made of one Margaret Lang, *dite* Pinched Maggie, to whose vocal gifts, as the reader may recall, Christian attributed those unearthly howlings in the garden that made night hideous at Bargarran. This woman, the wife of William Semple, cottar in Cartympen, in the parish of Erskine, aware of what had transpired before the Commission, came, on 12th February, voluntarily, with her daughter Martha, to Bargarran House, to answer the charges made against her. The invalid, apprised of their arrival, at once fell into convulsions. When admitted to the sickroom, in presence of the minister and others, Pinched Maggie desired the girl to come to her, as she would do her no harm; "and, laying her arms about her, spake very fairly to her, and questioned her if she had ever seen her amongst her tormentors." Even the case-hardened Christian was, for the moment, abashed, and, saying faintly, "No," took refuge in a fresh fit. The visitors were then asked to go downstairs and wait in the hall, Maggie gratefully exclaiming as she went, "The Lord bless thee, and ding [drive] the devil out of thee"—a curious wish, in view of her sinister reputation. On recovery, the damsel came to the hall, stating that her bonds were now loosed, and she was ready to accuse Maggie to her face. She attributed her failure to do so before to a charm made by Margaret for that end; and, sure enough, near the chair where the old woman sat by the hall door, a parcel of hair was found, which immediately was cast into the fire and burned, according to the judicious practice of dealing with *pièces de conviction* observed in such cases. Asked how she knew of the existence of the charm, Christian said that "something" speaking to her from above had suggested it to her; one would rather suppose the suggestion to have proceeded from another quarter. Thus were poor Maggie's budding hopes "pinched" beyond possibility of fruition. The next day a girl named Rodger, who lived in the neighbourhood, came to the house of Bargarran, inquiring for the lady. She in her turn was induced to enter that

upper chamber, was forthwith enrolled by Christian in the long list of her visionary tormentors, and, being confronted with the confessants, was denounced by them for attending the meeting in the orchard, consulting and contriving Christian Shaw's ruin.

Further to pursue the murderous vagaries of this terrible child were a task equally beyond my space and patience. Briefly, she sought to compass the death of many innocent and harmless persons, invited by her credulous family and the misguided ministers—blind leaders of the blind—into her fatal parlour, with the usual convulsive and accusatory results. Her appetite for blood grew more fastidious. She now flew at higher social game; but the confessants feared to follow her so far, and the prospective victims, indicated in the Narrative by initials only, escaped at once publicity and the flames. One day she was stung by the devil, in the similitude of "a bumbee"; and the ministers, on research, "did visibly discern the lively marks of nails of fingers deeply imprinted on that same part of her leg." The insect must have belonged to an order peculiar to Renfrewshire. On another occasion, being visited by the Sheriff and the macer of the Justiciary Court, she denied the presence of those tangible officials, crying: "I cannot feel the Sheriff; how can he be present here? or how can I have him by the hand as thou sayest, seeing I feel it not? Thou sayest he hath brown-coloured clothes, red plush breeches with black stripes, flowered muslin cravat, and an embroidered sword-belt. Thou sayest there is an old grey-haired man with him, having a ring upon his hand; but I can neither see nor feel any of them." Yet the Sheriff's appearance would seem to have been sufficiently conspicuous. "What!" she continued, "are they come to apprehend the gentlewoman? Is that their errand indeed?" The lady alluded to was a recent *accusée,* who, with some reason, had called Christian a poor, daft child. She was apprehended in course by the venerable macer, but for lack of probation was soon set at liberty. On 23rd March 1697 the devil, "in the shape of a naked man with a shirt, having much hair upon his hands and his face, like swine's bristles," made positively his last appearance at Bargarran. *Enfin,* on Sabbath morning, the 28th, to the joy of her parents, the glory of the

ministers, the admiration of the Faculty, and the immense relief of the whole neighbourhood, this perplexing damsel was perfectly recovered both of all her sore and light fits, becoming well, sensible, and composed as ever. After her seven months' labours, she herself must have felt the need of a holiday.

On 9th March the Commissioners had reported to the Privy Council that there were twenty-four persons, male and female, suspected and accused of witchcraft, as to whom they recommended further inquiry. Following upon this report, the Privy Council, on 5th April, issued a new warrant, appointing Sir John Hamilton, Lord Halcraig, one of the Lords of Justiciary; Francis Montgomery of Giffen; Sir John Houston of the ilk; with John Kincaid of Corsbasket and John Stewart, younger of Blackhall, advocates, as additional Commissioners, to take trial of, judge, and to do justice upon the foresaid persons, and to sentence the guilty to be burned, or otherwise executed to the death, as the Commissioners should incline. It was further ordained that an authentic extract of the proceedings should be transmitted to the Court of Justiciary, to be entered upon its records; but, unfortunately, this injunction, as Arnot in his *Criminal Trials* has pointed out, was not complied with, so that no official record of the trial has been preserved. The little that we know of the proceedings is derived from such particulars as are vouchsafed by the Narrative, and from certain references in the minutes of the Presbytery.

The trial appears to have begun at Paisley on 13th April, and to have continued, with adjournments, till 11th May. The case had excited much interest throughout Scotland, witchcraft in those days being everybody's business; and there was, we are told, a great confluence of several nobility and gentry out of the country to the court-house, including the Earl of Glencairn, the Lords Kilmaurs and Semple, and other high company. Francis Grant of Cullen, taking notes for his future Narrative, and Mr. "Commissar" Smollett of Bonhill, were also among the spectators. One wishes that the experience had befallen the Commissary's kinsman, the great Tobias, and had been available for *Humphry Clinker*. The crimes libelled were the murders of some children and persons of

age, and the torturing of several persons, particularly Bargarran's daughter. The prosecution, which was brought under the statute of Queen Mary, Parl. 9, Act 73, entitled *Anentis Witch-craftes,* was personally conducted by the Lord Advocate, Sir James Stewart of Goodtrees (now Moredun), from whose residence in the Advocate's Close, Edinburgh, that famous "throwgang" derives its name. His lordship, who, according to Burnet, was known to his contemporaries by the sobriquet of "Wily Jamie," was eminent in managing the numerous witch-trials for which Dutch William's reign is only less notable than that of our sixth James, of sanguinary and blessed memory. An advocate appeared for the prisoners by gracious permission of the Crown. "There were about twenty hours employed at one diet in examination of witnesses; and the inquest being enclosed, did consume about six hours in comparing the probation. Whereupon seven of the most notorious criminals were convicted and condemned." Such is the brief epitome which has come down to us of this remarkable trial. Christian Shaw, now happily restored to health, was, of course, the principal witness, and the five confessants played up to her regardless of consequences to themselves. We are informed that "she discovered her integrity in face of Court"; but if counsel for the defence were worth his salt, Christian's tale presented a fine field for cross-examination. Expert evidence was given by Dr. Brisbane of Glasgow, who adhered to his former subscribed attestation. "All things," the Narrative assures us, "were carried on in this procedure with tenderness and moderation"; and Crown counsel "did not act with the bias of parties," but displayed anxiety to have the pannels acquitted, "if it could be found compatible with justice." And indeed, as appears, the Lord Advocate expressly stated that he did not threaten the jury with the "ordinary severity" of an assize of error in case they should fail to convict, but left them wholly "to the conduct of God and their own conscience"! Margaret Lang, we learn, "did make harangues in her own defence, which neither divine nor lawyer could reasonably mend"—a high compliment from a member of the Scots Bar, which makes us regret that Pinched Maggie's address to the jury has not been preserved. Despite her eloquence the verdict was

"Guilty," and the seven prisoners were adjudged to be burnt to death.

Three males and four females were condemned, viz., John and James Lindsay, John Reid, Katharine Campbell, Margaret Lang, Margaret Fulton, and Agnes Naesmith; it is noteworthy that all of them are said to have acknowledged the justice of their sentence. On Saturday, 21st May, John Reid, having been left alone overnight in his cell in the Tolbooth, was found dead, sitting upon a stool, with his feet on the floor and his back to the fireplace, "his neck tied with his own neckcloth (whereof the knot was behind) to a small stick thrust into a clift above the lintel of the chimney." It was of course assumed, in these unusual circumstances, that he had been strangled by Satan. On Thursday, 10th June 1697, his fellow-prisoners were executed on the Gallow Green of Paisley. "They were first hanged for a few minutes, and then cut down and was put into a fire prepared for them, into which a barrel of tar was put in order to consume them more quickly." Their spiritual wants were well supplied, for the Presbytery "did allot to each one or two of the brethren one of the sentenced persons, to be dealt with by them, and waited upon to the Fire." The place of expiation is still marked in George Street, Paisley, by a horse-shoe inserted in the centre of the causeway.

In the judgment of Arnot, an eminent authority, the case of Christian Shaw was from first to last one of conscious, malevolent, and wilful imposture, which only the stupidity or prejudice of those about her failed to discover. C. K. Sharpe shared his opinion, stigmatising Christian as a "wretched girl, antient in wickedness," and citing a passage from the Rev. John Bell's MS. *Treatise on Witchcraft,* to the effect that the whole affair was occasioned by the forwardness and absurd credulity of the ministers and some "topping professors" in the city of Glasgow. Dalyell, too, thought that Christian, in her early depravity, displayed an artifice and sagacity far beyond her years; and the authors of *The Philosophy of Witchcraft,* who visited Bargarran House before its demolition, found what they believed to be physical evidence of fraud. Chambers, on the other hand, considered that the maledictions of Katharine Campbell threw the child into an

abnormal condition, in which the current belief of the time made her sincerely deem herself a subject of diabolic possession. Such was also the view of so scientific a student of the occult as Mr. Andrew Lang, who held that the symptoms exhibited by Christian were due to nervous shock caused by the curse, powerfully assisted by the prevalent superstition—"In short, she was a splendid case for the phychical inquirer." Personally, maugre her tender years, I am inclined to side with Arnot. The curse was somewhat too slow in operating; delivered on Monday morning, it produced no effect till the night of the following Saturday. It seems to me more likely that Christian first assumed the rôle of the bewitched merely to gratify a grudge against Katharine, and that the general admiration with which her rendering was received, caused her to develop the part to its fullest capacity. The enchanting of Sir George Maxwell of Pollock in the same county, twenty years before, as discovered by Janet Douglas, a young dumb girl, would still be common talk in the district, and perhaps Christian Shaw sought to supplant that fraudulent maiden in the local fame, as, designedly or not, she did. But how, in either view, can one explain the voluntary confessions of her victims, who, though morally dealt with by the ministers, suffered not those physical and "accustomed paines" endured by witnesses in earlier cases —the *pilliwinkes* and the boots? "It only shows what Natur is, sir," said Mr. Squeers, that profound philosopher; "She's a rum 'un, is Natur."

The weird experiences of Christian's childhood have a curious commercial sequel. Nothing more is heard of her till 1718, when she became the bride of the Rev. John Miller, minister of Kilmaurs. Her exceptional knowledge of Holy Writ doubtless made her a valuable helpmate, but the good man died in 1725, and she returned, a widow of forty, to her mother at Bargarran. We read in the *Statistical Account* of Erskine Parish (1792) that, having become expert in the spinning of fine linen yarn, Mrs. Miller conceived the idea of twisting it into sewing thread. She executed almost every part of the process with her own hands, and bleached her materials on a large slate placed in one of the windows of the house. Such ingenious manual dexterity throws some light upon her earlier and

less laudable productions. Her efforts were successful, and were lighly appreciated by her neighbours. Lady Blantyre, the *grande dame* of the county, took some of the thread to Bath, where it found a ready market among the lace makers. This is said to have been the first thread made in Scotland that crossed the Border. By a happy coincidence, a relative of the Shaws, newly returned from Holland, had surprised some trade secrets of the industry as practised by the Dutch. Mrs. Miller was not slow to profit by his hints; she extended her operations, twining mills were erected, agencies established at Edinburgh and Glasgow, and a large and lucrative business eventually crowned her enterprise. At first, her mother and sisters were her chief assistants; and the newspapers of the time contain advertisements vaunting the superiority of their "Sewing Threed," and warning the public that, to prevent imposition by unscrupulous imitators, the genuine article was sold only under the name of "Bargarran Threed," put up in paper bearing the Shaw blazon, *azure*, three covered cups, *or*. In those pre-snobbish days the Scots gentry made little of going into trade, provided there was money in it; but there is a quaint individual touch in this appropriation of the arms of an ancient house as a suitable trade-mark. A spool of the Bargarran thread, by the way, is preserved in the Museum of the Society of Antiquaries of Scotland. The further history of the manufacture may be read in that interesting volume, *The Paisley Thread* (1907).

Thus from the inconspicuous labours of the minister's widow, in the quiet parlour of her country home in an out-of-the-way corner of the shire, arose, in the fullness of time, that great local industry which has made the name of Paisley familiar throughout the civilised world. Christian Shaw had luck; but she twined her thread, as the painter in the tale mixed his colours, with brains. She was a born inventor; yet the pity is that the first-fruits of her premature and unripe genius were fashioned in so dire a shape, and had, for such as ate thereof perforce, the bitterness of death.

Note.—Christian Shaw's Bedroom.

"In the upper part of the house are two rooms, separated by a partition of pannelled oak, in the smallest of which stands an oaken bedstead, richly carved and bearing date 1672. This was the sleeping apartment of that uphappy girl. The principal room, the walls of which are still hung with tapestry, on which are delineated some curious landscapes, though fast falling into decay, has a communication with the bedroom by means of a slanting hole made in the partition, and which is placed near the head of what had been Christian Shaw's bed. It is about an inch and a half in diameter, and passes in an oblique direction from the large room through the partition, and in such a position, that when the bed was made up, those who were in the bedroom might not be able to see it. We at first imagined that a knot in the wood had fallen out, but on examination it was found to have been made by artificial means, and the natural conclusion was that it had been done for some invidious purpose. Had the partition been perforated in a direct manner, the light from the principal room would have been clearly discernible from the bedroom, but it is so cunningly contrived, that even if the eye had rested on it the hole would hardly have been perceptible. Supposing, then, Christian Shaw to have had an accomplice (of which there seems no reason to doubt), how easily could pins, straw, bones of fowls, etc., have been transmitted through the perforation to the bed on which she lay."—Mitchell and Dickie's *Philosophy of Witchcraft* (Paisley, 1839).

While no contrivance, however ingenious, in Bargarran House can account for Christian's performances at Glasgow, as observed by Dr. Brisbane, and her other feats elsewhere, this "perforation" does let in some light upon the dark methods employed by the phenomenal maid.

THE LAW AND MRS. YELVERTON

I have heard lawyers say, a contract in a chamber,
Per verba [*de*] *presenti,* is absolute marriage.

The Tragedy of the Duchesse of Malfy.

THE Scots law of marriage is to be uninitated a mysterious force, fraught with peril for the celibate, and affording, like Mrs. Todgers' notion of a wooden leg, scope for the exercise of respectful wonder. In no land less favoured are the gates of matrimony supposed to stand so invitingly ajar, to the end that heedless folk, almost before they are aware, may with a minimum of effort find themselves across the threshold. Compensation for this fatal facility of access, however, might be held to reside in the ample means of exit by the backdoor of divorce, available to sojourners who should become weary of the entertainment provided within. The popular belief as to the ease with which in Scotland marriage can be contracted—a belief forming the *motif* of Mr. Wilkie Collins's *Man and Wife,* designed by that ingenious author to make his single reader's flesh creep—receives but scant support from the circumstances of the case here briefly to be narrated. During the years 1858 to 1864 the question whether or not Theresa Longworth was the lawful wife of Major Yelverton successively occupied the attention of the Courts of the three kingdoms, and the result of so much applied wisdom is no less curious, than instructive. First, an Irish jury found that she was; next, a Scottish Lord Ordinary declared that she was not; then the First Division of the Court of Session (by a majority of two to one) decided that she was; and finally, the English Law Lords (by a majority of three to two) determined that she was not! Thus of the nine judges who dealt with the case four were for and five against the validity of the Scottish marriage; from which it would appear that to be married, even in Scotland and however irregularly, is not such a simple business after all. "It is in the Courts of Law," as Mr. Joseph Conrad has

somewhere said, " that Comedy finds its last refuge in our deadly serious world."

The story of the great Yelverton marriage case, the most interesting consistorial cause in our records, deserves attention by reason of the remarkable character of the heroine, the picturesqueness of the setting, the originality of the plot, and the dubiety of the conclusion—like the pudding instanced by the mayor in *Woodstock,* it has more ends than one; yet these manifold attractions notwithstanding, but for the sketch by Mr. F. P. Walton in his popular guide to matrimony, no short readable account of the facts, so far as I am aware, exists. Material is not lacking; the proceedings in the Court of Session and in the House of Lords are printed at large; no less than three reports of the Irish trial, in highly injurious type, were published at the time, and the correspondence of the parties, edited by the lady, in itself furnishes a volume; but these authorities, for diverse reasons, are not to be read running, and there seems room for a less technical and exhaustive relation.

The scene of the prologue was the deck of a cross-channel steamer from Boulogne to London; the time a summer night in 1852; and the actors two voyagers, who, travelling separately and alone, made acquaintance on the passage. One was a young lady of attractive aspect, agreeable manners, and romantic temperament; the other, a good-looking man of twenty-seven, with a martial air, and a redundancy of beard and whisker that would have provoked the wrath of Mr. Frank Richardson. The lady dropped her shawl, the gentleman replaced it on her graceful shoulders, an exchange of courtesies ensued, and the elements being propitious, the couple spent the remainder of the night on deck, where, sheltered by the gallant officer's plaid, they enjoyed across the quiet sea the beauty of the sunrise. A devout Catholic, the lady afterwards attributed the meeting to the patronage of St. Anthony. The plaid in later years reappeared in their correspondence; it formed a canopy over the owner's bed in his leaky tent in the Crimea, and still retained, as he declared, some reminiscence of " the only night I remember on board a steamer." " Blessed plaid! " comments the lady, " to retain the magnetic fluid all this long time! "

adding, with what good reason for solicitude she little realised, "Pray do not lose it, or share it with anyone again." What happened when the steamer reached London, whether he called on her that day and how he behaved, is disputed; but admittedly they saw no more of one another till the autumn of 1855.

Maria Theresa Longworth, daughter of a prosperous silk-spinner in Manchester, was born about 1832. She and her sisters having lost their mother early, were educated at an Ursuline convent in France. The sisters afterwards married: one, Madame Lefebvre, lived in Boulogne; the other, Mrs Bellamy, at Abergavenny Castle, in Wales. When her schooldays were over Theresa went back to her father's house at Smedley, but certain religious differences led to her leaving home. After his death she spent most of her time on the Continent, and saw much of Madame Lefebvre, with whom she had been staying when we met her returning to England to visit her other sister. Her fellow-passenger, the Hon. William Charles Yelverton, younger son of an Irish Protestant peer, Viscount Avonmore, was a captain in the Royal Artillery, without private fortune, then leading, presumably on his pay, the usual life of a man about town.

Though our sentimental travellers did not meet again for three years, the mutual impression received by them upon that summer night was not suffered to fade. Some months after the parting Theresa wrote from Naples to Yelverton, who was then stationed at Malta, asking him to forward a letter from her which she enclosed to a cousin at Monastir. Over and above the saving of time in transmission, there is no doubt that she sought opportunity to revive their brief acquaintance. The gentleman proved nothing loth; and a correspondence began between them so voluminous that at the subsequent trial no less than 122 letters were produced, 66 written by him and 56 by her, while it clearly appeared that as regards both sides a great many more were, wilfully or otherwise, withheld. Theresa was no ordinary correspondent; even for a letter writing age her pen was singularly fluent. Her early letters are brilliant and pointed, abounding in shrewd observation, and show an obvious desire to renew and continue the acquaintance upon more intimate and familiar lines; the

tone, allowing for a certain straining after sentimental effect then fashionable, which now sounds rather fantastic, is graceful and refined; and the transition from friendship to a warmer feeling seems plainly spontaneous, and without any taint of artifice or design. Her florid literary style and extravagant, if not always accurate, use of foreign tongues, reminds one of the purple pages of the great Ouida. In the flamboyant 'fifties a lady enamoured might so write without fear or reproach. That her military friend appreciated the freshness and vigour of this gifted correspondent is clear, but his letters from the first combined with a nonchalant man-of-the-world tone a note of caution, which might well have put a less enthusiastic damsel on her guard, and as a writer of love-letters he was regrettably vague on the subject of matrimonial intentions. "My dear Captain Yelverton" and "My dear Miss Longworth" gradually ripened into "Carissimo Carlo mio," "Cara Theresa mia," and finally "My dearest little Tooi-tooi," with endearing variations. One notes that it was the man who first overleaped the formal barrier. The reading of these letters invites, for the student of such matters, comparison with the equally famous series then being written for the amazement of posterity by Madeleine Smith; but those of Theresa Longworth, apart from their wider range, greater originality, and higher intellectual power, are wholly free from such crude indelicacies as disfigured the pages of the syren of Blythswood Square.

Both were desirous to meet again; and when, in the autumn of 1853, the captain, having been home on leave, was returning to Malta, he tried to arrange an interview at Naples. The plan fell through, but in the following year the lovers were caught up and swept together by the tide of international events. On the outbreak of the war with Russia in 1854 Yelverton went with his regiment to the Crimea, and the romantic Theresa, assuming the garb of a *Sœur de Charité,* betook herself to the French Hospital at Galata. "I think it is a sort of vagabond life [that] would just suit me," she wrote to the warrior, announcing her intention; "but a *vivandière* might be a little more exciting. Wouldn't you be glad to see me, with all my plasters and bandages and charming little barrels, when you were half-choked with smoke and powder? What an

ange de miséricorde I should appear to you under these circumstances." Yelverton, having received promotion, was obliged to go to England in the spring of 1855, and had left the East before Theresa reached the scene of her ministry. He returned in the autumn, and at Galata they met for the second time. At to what happened on this occasion the parties are sharply at variance. The lady asserts that, as the natural result of his epistolary courtship, the major proposed marriage, which she accepted; that they became engaged upon the footing that their marriage should be postponed till the termination of the war, and that she communicated the fact to her sister Mrs Bellamy. This lady was not called as a witness at either of the trials. The major, on the other hand, maintains that he only went to see her at her request; the interview was short, " but in consequences of the advances made by the pursuer, great familiarities ensued."

In 1856, when hostilities had ceased, Theresa left for the Crimea on a visit to Lady Straubenzee, wife of a general officer commanding a division of the British Army. There the parties frequently met, and according to Theresa their engagement was well known to her host and hostess. The major, she says, informed her that he was in great pecuniary embarrassment and wholly dependent upon an uncle, who, for family reasons, did not wish him to marry; he therefore proposed that they should be married privately in the Greek church at Balaclava; but she would have nothing to do with his scheme for a secret marriage, and returned to Constantinople without any definite arrangement between them as to the date of the ceremony. All this the major denies. He says they parted on board the steamer in which she was to sail for the Bosphorus, and at the Irish trial he gave in the witness-box so gross an account of his behaviour to the lady on that occasion that the Court had to be cleared, and the reporters were unable to publish the details. Sir Thomas and Lady Straubenzee afterwards deponed that the major called almost daily while Miss Longworth was with them, and that they regarded him as an honourable suitor for her hand.

Now, in the whole correspondence up to this point there is not a word that any lady would hesitate either to write or to read, and one naturally expects that the tone of the

subsequent letters would be affected by this ugly episode, if it in fact occurred. In her first letter to him after their parting she writes: "This time last Saturday night, Carlo mio, was our *second* steamer scene. God grant the third be not far distant—and the consummation of all"; and after discussing at length the difficulties created by his uncle's attitude, she begs him to be as frank with her in his letters as he had been when she was near enough to read his heart: "As I know the length, depth, and breadth of your wickedness now, you need have no fear of losing my good opinion." She is surprised at his present state of feeling towards her: "Our correspondence ought to have generated in you, as in me, esteem, admiration, affectionate trust and confidence, idealised ethereal love, a love to live or to die for, a little Platonic at first, but finally becoming the elixir *par excellence* of life. You might be in love with a Turkess instead of an over-spiritualised Englishwoman, . . . but you must, you will eventually, become all my heart's desire." That this rhymes better with her than with his version of their parting admits of little doubt. He had shocked her sensibilities by displaying the material quality of his admiration, but when she wrote thus it is impossible to believe that she was expressing a hope that Yelverton would so improve as to become fit for a paramour; and when she prayed God that the third eventual scene between them might not be far distant, she was surely not soliciting from the Throne of Grace a consummation of sin and shame. In her next letter she argues that the considerations he had assigned were not sufficient to prevent matrimony: "All these reflections lead me to think that there is something more than the money difficulty which you have not had the courage to tell me, Carlo. If so, I have only three words to say: for God's sake, let this be the end, . . . we must not meet again." This hardly helps the major's case that the lady was urging him to take her as his mistress. As appears from his own evidence at the Irish trial, the "something more" that the honourable and gallant gentleman lacked courage to tell her was that he had formed the idea of her seduction—a design of which he said the laudability or otherwise depends upon whether it is found out or not—as the less costly means of attaining his object.

Monetary difficulties and the veto of the wicked uncle continued to play their part in the subsequent correspondence. The major delayed his coming to see her again at Constantinople before leaving for England, and Theresa, world-weary, contemplated taking the veil, but her affection for her unsatisfactory fiancé proved too strong. "Oh, I want you so much to come," she writes; "all nature is so lovely that it is a sin not to rejoice with her in her smiling bright new dress. The hills are white with daisies and the valleys green with fresh moss, the trees are all loaded with varied blossoms and the air is heavy with delicious odours; there is a south wind breathing warmth and telling me of you." She envies the birds busy building beneath her window and chattering about it all day long: "Doubtless they have no uncle to prohibit their happiness on their little mud wall!" So she pled, and very prettily, but to deaf ears; Yelverton returned to England by Odessa and the Danube. It is curious that if, as he says, the lady was begging him to become her protector, this Ouidaesque hero, whose whiskers were stronger than his morals, should have hesitated to comply with her request. "Cara Theresa mia," he wrote to her from Vienna on his way home, "the fraternal scheme was a physical impossibility. I dreamt it; and waking, found that the chivalry was not departed, but superseded; therefore, as I could not be what you wished, I determined not to persist in a course which must end in converting me into a modern Tantalus." Although she told him that if he desired the curtain to fall between them for ever he had but to say so, in his next letter, written from Dublin, he expressed the hope that they should meet again in London, and the correspondence continued as vigorously as before.

After spending some months in the East, Theresa returned to England towards the close of 1856. She had complained that in his letters he blew hot and cold. "You want to know how I make myself at times indifferent," he replied; "I'll tell you. It is that, knowing I cannot gain on your terms, I will not try on mine." What his terms were he told the Irish jury; her terms were marriage, and he knew it. On 15th January 1857, from her sister's castle of Abergavenny, she wrote to him at Leith Fort where he

was then stationed: "Only think of my having three letters to answer at once, and one due South too! " These letters, unfortunately, were not forthcoming for a reason which will afterwards appear; but one at least was in his warmer vein, and while we do not know whether Theresa went to Scotland by his request or, as he alleges, uninvited, unsolicited, and unexpected, the probabilities are in her favour. She was accompanied by a young lady named Arabella Macfarlane, whose father and her own were friends; and arriving at Edinburgh in February, took lodgings at No. 1 St. Vincent Street. Mrs Gemble was their landlady, and they occupied a bedroom and two sitting-rooms in her flat on the third floor. According to the evidence of Miss Macfarlane at the trial, they went into society in Edinburgh, visiting Lady Murray, Mr Robert Chambers, and other representative citizens. Major Yelverton was a constant caller. He was polite, respectful, and attentive; she regarded him as her friend's fiancé. He spent his afternoons with them and often rode out with Miss Longworth. He never stayed all night, and she was generally in their company. Her Church of England prayer-book usually lay on the sitting-room table. A question as to a remark made by Miss Longworth to her with respect to that book was disallowed. Mrs Gemble corroborated; she understood the parties were engaged, and the major told her, with reference to her lodger's accomplishments, "When I marry Miss Longworth I will marry the cleverest lady in Edinburgh."

Now, Theresa averred that on 12th April 1857, within Mrs Gemble's house, she having yielded to Yelverton's continued pressure for a secret marriage, they solemnly acknowledged and declared each other to be husband and wife; that they also read through the Church of England marriage-service together; and that the major then said, "This makes you my wife according to the law of Scotland." But though so far abandoning her former scruples she, as a Roman Catholic, refused to cohabit with him until they had gone through the ceremony before a priest of her own faith. This by no means suited the bridegroom's book; he expressed great displeasure, and some ten days after the episode, to escape his importunities, Theresa left Edinburgh on a visit to friends at Hull. Miss

Macfarlane went into retreat at St. Margaret's Convent, Morningside, and the major resumed those regimental duties which of late he had so sadly neglected. Yelverton, on the other hand, averred that while in Edinburgh they carried on a secret and illicit intrigue; according to his case, there never was a marriage, nor a marriage engagement, nor a promise of marriage between them. The half-dozen letters written by him at this time, addressed "Carissima" and signed "Carlo," relate merely to social engagements.

Theresa continued to write to him in her usual strain, and wholly without any sign of the radical change in their relations which he alleged had taken place. In one of her letters she enclosed, without comment, the marriage cards of a Mr and Mrs Shears, whose acquaintance she had made abroad. In his reply he actually pretended to believe that she herself was the bride! "By your marriage," he writes, "you have earned my lasting gratitude, as on reflection I found that I had placed myself in a false position with regard to you, and one of all others most painful to me, viz. *that I had promised to you to do more than I could have performed when the time came.* You may think this declaration a new example of the truth of the old fable, but it is not so." The words which I have italicised can only mean that he had promised either to marry her or to acknowledge that she already was his wife, a gloss which his reference to sour grapes goes far to confirm. Theresa was terribly upset. "Are you mad or am I?" she answers, "that you should judge me guilty of such an infamous thing—God help me! I do not know how to bear this last blow." But the misunderstanding was removed, and by July she suggests in preference "to our other project" a plan for their being married at Manchester, whither she was going, "in the old cathedral, where my forefathers lie." There he was unknown, and their purpose would be "ignored by mortal creature." On 12th July, just three months after the Scottish marriage, she writes to him: "My ears ache to hear the *mia,* though I am convinced you might say it with perfect truth now, *and for exactly three months past.*" This plainly refers to the St. Vincent Street ceremony of 12th April.

The major was now in Ireland on leave. According to Theresa, he wrote to her from Dublin that he was at last prepared to agree that their marriage should be celebrated formally by a Catholic priest, and inviting her to come to Ireland for that purpose. This letter, like many of equal moment, was not forthcoming; but it was proved that on 25th July Yelverton bought a wedding ring from a Dublin jeweller, and on the 28th the couple met at Waterford. From that date until 15th August they admittdly stayed together at Malahide, Newry, and Rostrevor. They engaged in the various hotels which they visited a sitting-room, bedroom, and dressing-room which contained a bed, so there is no architectural reason for rejecting the lady's statement that until the religious ceremony was performed they occupied separate rooms. On the other hand, the moral probabilities are in favour of the major's contrary assertion; and the pair were naturally regarded by the hotel witnesses as married persons. At Rostrevor Theresa consulted the Rev. Bernard Mooney, parish priest of Kilbroney, with reference to her matrimonial position. He took her to his diocesan, the Roman Catholic Bishop of Dromore, who told her that her marriage was valid in the sight of the Church, that banns were in the circumstances unnecessary, and authorised Father Mooney to perform, as requested by the lady, a ceremony of renewal of marriage consent. Accordingly on Saturday, 15th August, being the Feast of the Assumption, the major and his bride appeared before the celebrant in the chapel of Killowen after Mass. "Mr Mooney," said the bridegroom, "there is no necessity for this; it has all been previously settled, but I will do it to satisfy the lady's conscience." The priest understood him to refer to the Scottish marriage, and asked if he were a Catholic, to which with characteristic ambiguity Yelverton replied, "I am a Protestant Catholic." "As you are both willing, I have no objection," said Father Mooney; whereupon the couple knelt at the altar and repeated after the priest the marriage ritual of the Roman Church. The only part of the service omitted by Father Mooney was, he says, the Benediction. In the description of the ceremony which Yelverton afterwards gave to Dean Ramsay, he said it took place "in a schoolroom," and consisted merely in the priest pronouncing the Benediction!

The first use made by Yelverton of his marital authority was to cause Theresa burn such of his letters as she had with her which bore reference to the arrangements for the marriage. Apart from these, she produced at the trial all letters she had received from him; but it is noteworthy that the major, with a single exception, produced no letter written by her to him subsequent to the Irish ceremony. After the wedding the couple travelled together for a fortnight in Ireland; then the bridegroom went to visit his relatives there, and the bride returning to Edinburgh and finding Mrs Gemble's rooms unavailable, took lodgings with Mrs Stalker at 31 Albany Street, where she was joined by Miss Macfarlane. Mr and Mrs Thelwall, the friends with whom she had stayed at Hull, also paid her a visit. The night before they left, Yelverton arrived; he was introduced to them, and they spent the evening together. At the trial in Scotland Mrs Stalker, Miss Macfarlane, and Mr Thelwall—his wife was too ill to be examined—all swore they understood Theresa to be married to the major, but that for family reasons the marriage had to be kept secret. He dined and slept in the house nightly, and by day attended to his duties at Leith Fort. In the autumn the pair enjoyed a trip to the Highlands, in the course of which they visited Doune Castle, where it was proved the major entered their names in the visitors' book as "Mr and Mrs Yelverton." On their return they continued to occupy Mrs Stalker's rooms. One day they rode out to see Craigmillar Castle, and the caretaker deponed that the major told him to hold "his wife's" horse; he was shy of horses, but the gentleman reassured him by saying, "My wife's horse is a quiet one." At Seafield Baths, which they frequented, Yelverton was proved to have described Theresa as his wife.

In November it was arranged that they should visit the Thelwalls, but the major could not get away, and Theresa went alone. He booked a passage by the Leith steamer for "his wife," and asked the stewardess to let "his wife" have a cabin to herself. On 31st December Yelverton joined her at Mr Thelwall's house. That gentleman, who was an ironmaster and a person of position in Hull, had known Theresa for fourteen years. He was told that as Yelverton desired for private reasons to conceal the

marriage, and as his housekeeper knew some of the major's friends, it would be better not to mention names before the servants, and effect was given to this arrangement. When the couple left Hull it was proposed that they should travel on the Continent, and Yelverton consulted his host as to having a movable stone made for Theresa's wedding-ring, which she could put on if she met any of her relatives. In the course of the conversation Theresa remarked that should she die and be buried abroad they would have to bring her body back to England, in which case, says Mr Thelwall, "she said that having been twice christened and *twice married,* she would also be twice buried; whereupon the major laughed." At his request Mr Thelwall procured a passport in name of "Mrs Theresa Yelverton," she already having one in her maiden name, and the parties went to France, where they stayed until April 1858, when the major's leave expiring he returned to Leith, and Theresa, who was not in a state of health to travel, remained at Bordeaux.

During the tour in France they met at Dunkirk a London gentleman, Mr Goodliffe, who was living in the same hotel. He knew the major as a bachelor, and finding him in company with a lady whom he called his wife, said, "Well, Yelverton, is this all right? Is it on the square?" to which the major replied, "Yes, she really is my wife, but we have been married secretly. I am obliged to keep it secret from my family"; and he entered, says Mr Goodliffe, into a long explanation regarding his relations with an uncle, specially asking Goodliffe not to mention in society the fact that he had met his wife. It was also proved that while Theresa remained at Bordeaux she received letters with the Edinburgh postmark and addressed to "Madame Yelverton," which the major admitted were written by him. In May a miscarriage occurred, and so ill was Theresa that her sister Madame Lefebvre had to be sent for. That lady wrote twice to Yelverton as to her sister's state; he acknowledged the bulletins, but in writing to Theresa treated her illness lightly, and made no offer to come to her. When she was sufficiently recovered, Madame Lefebvre took her to her own house at Boulogne.

According to the evidence of all the witnesses, Yelver-

ton's behaviour to his companion from the time of the Irish ceremony was invariably kind and respectful, in every way becoming that due to a wife. In one important point, however, he fell short of an ideal husband, for Theresa avers that the whole charges of the Irish interlude, of the Highland tour, of the housekeeping in Edinburgh, of the visit to England and the Continent, and of the residence there, were borne by herself alone. The major, admittedly, was throughout hard up, while she was a lady of some means—she had £300 or £400 a year—and was, besides, very much in love.

Although the couple were in constant correspondence, Yelverton, as already stated, could produce only a single letter from her applicable to this period. Among those of his produced by Theresa is one dated December 1857, in which he expresses anxiety as to her condition: "The cat must be kept in the bag just now, for if the fiery devil gets out now, she'll explode a precious magazine, and blow us all to the devil. In the future there is hope of being able to loosen the strings." Plainly the feline metaphor better fits a secret marriage than, as the major afterwards explained it, a commonplace intrigue. The child was expected in June 1858; it will be remembered that the Irish marriage took place in August 1857; which facts go far to confirm Theresa's account of their relations. "You say, 'I told you my resolution in case certain events occur. You were very angry, but it would be my duty, and if I live I must do it,'" he quotes from an unproduced letter of hers. "Where is your duty of keeping faith with me?" he asks; he has done more than he promised at a great risk, and the expected event is equally unwelcome to him. "If I depart this life," he continues, "you may speak; or if *you* do, you may leave a legacy of the facts; but whilst we both live you must trust me, and I must trust you. When I find my trust misplaced, if you have any affection for me I do not envy you the future. Your duty lies this way, not that." Again, with which story does this better square, hers or his, marriage or an illicit union? Why should a military man of that day be very angry at the prospect of the world knowing that he had a *liaison* with a beautiful and brilliant woman, and what would it profit the lady to publish after his death the fact of her own

dishonour? But if her resolution were in certain events to proclaim *the marriage,* it is not surprising that her letter was withheld. In the only letter of hers which the major was able to produce, written from Boulogne in June 1858, Theresa tells him how ill she has been, and says he may be convinced by coming to see the wreck she has become. "If these my sufferings for your sake have not endeared me more, do not think there is any obligation imposed upon you; let it be forgotten. As to the other business, I do not see any other course than to tell your mother the truth, as you proposed doing. Surely she will forgive and help you; she has a mother's heart and a clever head. Do not, in the hope of patching matters up, throw away our last chance of united happiness." The Bordeaux landlady had treated her rudely: "I care not about the honour of seeing your family, but I must be protected from all possibility of another Bordeaux *exposé*. You will recollect that I told you before I consented to keeping the marriage secret that this, and this alone, was the only sacrifice I could not willingly make for you."

There seems no doubt that Theresa began at length to realise the precarious position in which she was placed, for the same month she wrote to Father Mooney asking him to send her a certificate of her marriage, and alleging as her reason for so doing her expectation of the "arrival of a little stranger," which, in view of what had happened in May, can hardly be regarded as the true one. The priest cordially replied, enclosing the required certificate. It was in Latin, and bore that William Charles Yelverton and Maria Theresa Longworth were lawfully married by him at Rostrevor on 15th August 1857, according to the rites of the Holy Roman Church, in presence of Richard Sloan and Elizabeth Brennan, witnesses.

Theresa's fears were well founded, for about this time Major Yelverton called upon Mrs Stalker, the Edinburgh landlady, and presented her with a pair of candlesticks, "a present from France." "Is it from Mrs Yelverton?" she asked. "Pray, don't say that," said he, and told her that the lady in question was not his wife. "God bless me!" cried Mrs Stalker. "She was a *lady*. Why did you bring a lady here and behave so to her?" He added that the lady was now in the South of France, very ill, and it

was doubtful whether she would live. "You have broken the laws of God and man," said the good woman. The major laughed, remarking that he knew nothing about the laws of God, *but he knew the laws of man.*

On 25th June Theresa arrived in Leith and had an interview with Yelverton, at which he appeared to her to be in a distracted state of mind. He begged her to leave Edinburgh, as the marriage was becoming known. On the 26th the major addressed his "Poor little Tooi-tooi" for the last time. "I cannot go and see you any more just now. You must go to Glasgow as I asked you," he wrote; his brother would call and explain. That morning at Trinity Episcopal Church, the Hon. William Charles Yelverton, Major in the Royal Regiment of Artillery, was married to Emily Marianne Ashworth or Forbes, daughter of the deceased General Sir Charles Ashworth, K.C.B., and relict of the late Professor Edward Forbes of Edinburgh University, by the Very Reverend Edward Bannerman Ramsay, Dean of the Diocese of Edinburgh. Dean Ramsay afterwards deponed that the date of the marriage had been fixed only the night before; in the circumstances it is unlikely that the service was fully choral. The episode is not included in the genial Dean's *Reminiscences.* The Hon. G. F. W. Yelverton, who acted as best man, duly waited upon Theresa on behalf of his brother, and urged her to proceed forthwith to Glasgow *en route* for New Zealand, with the view of allowing "the present storm to blow over"; but this the lady indignantly refused to do, and telegraphed instead for her brother-in-law, Mr Bellamy. Information lodged with the Procurator-Fiscal led to the arrest of the honourable and gallant bridegroom upon a charge of bigamy, but he was liberated later, the Crown failing to prosecute.

On 7th August 1858 Theresa raised in the Court of Session an action of declarator of marriage against the faithless major, founding on the Irish ceremony alone; this was afterwards withdrawn as not containing a full statement of her case. On 8th June 1859 Yelverton raised against her a declarator of freedom and putting to silence; and on 13th January 1860 Theresa replied by a new declarator of marriage on the following grounds:—(1) Interchange of consent *de præsenti;* (2) promise *subse-*

quente copula; (3) cohabitation, and habit and repute; and (4) the religious ceremony in Ireland. Yelverton denied that he had ever promised to marry the pursuer, or that they had interchanged mutual matrimonial consent in Scotland. He alleged that the connection had been throughout irregular, and that the Irish ceremony was merely a form to satisfy the lady's conscience. With respect to that ceremony he founded on an Act of the Irish Parliament (19 Geo. II. c. 13) whereby a marriage celebrated by a Roman Catholic priest is void if either of the parties has declared himself or herself a Protestant within twelve months thereof. The two processes were of consent conjoined and the record closed on 18th July 1860.

Meanwhile, a civil suit brought by Theresa in England to establish the marriage having failed on a question of domicile, as the result of a friendly move Mr Thelwall raised in the Court of Common Pleas, Ireland, an action to recover from Yelverton a sum in name of board, lodging, and necessaries supplied by him to the defendant's wife and her servant. The defendant pleaded that these were not supplied to his wife, and this was the only issue. The main purpose of the action was to allow Theresa to tell her own story in the witness-box, and to afford opportunity to cross-examine Yelverton, for by Scots law the testimony of parties to a consistorial cause was not then admissible in evidence. The trial began at Dublin before Lord Chief Justice Monahan and a special jury on 21st February 1861. Mr Sergeant Sullivan led for the plaintiff and the Right Hon. Abraham Brewster for the defendant. The proceedings, which occupied ten days, were marked by a passionate display of Hibernian enthusiasm, amazing to those accustomed to the dignified decorum of our Scottish courts. We are unused to the spectacle of a judge giving way repeatedly to uncontrollable emotion, and warning a jury against his sympathies; of counsel assailing one another with a vituperation that drew from the Bench a gentle reminder that the Court was not a bear-garden; of an advocate urging, as a reason for a verdict, the obvious prepossessions of the Court and his hearers; of witnesses cowed or encouraged alternately by wild expressions of anger or approbation; and of an audience whose conduct would have been indecorous even in a

music-hall. Theresa was in every way an admirable witness. Her beauty and charm of manner impressed the public no less than did her intellectual qualities the bar; while reporters rejoiced in her "exquisite propriety of diction" and the Titian-like tones of her hair, lawyers appreciated that her statements and explanations were clear, coherent, and unshaken by cross-examination, that she reconciled her evidence and her letters with much plausibility and tact, and that she sustained her ordeal with consummate aplomb. Once only did she falter, when the defendant, with singular lack of taste, sat and stared at her in front of the witness-box. The odiousness of his defence, and the many improbabilities of his story, became apparent when that gentleman himself gave evidence, and the rigorous cross-examination which he underwent at the hands of Sergeant Sullivan proved him destitute of that peculiarly trans-Atlantic article, a moral sense. He stuck, however, to his line that the lady had been merely and by her own desire his mistress, and that marriage was never in question between them. The facts came out upon the proof as already narrated; the speeches and charge increased, if possible, the popular excitement; and when the jury returned an unqualified verdict for the plaintiff, the Court rang with enthusiastic and prolonged applause. We regret to read that "the members of the Bar stood up and joined heartily in the public manifestations of delight; many of them actually took off their wigs and waved them with energy." Outside the court-house Theresa's reception was little short of royal; great crowds awaited her, flags were flown, and amid the cheering of thousands her carriage was drawn to her hotel, where from a balcony she was compelled to make a brief speech of thanks before the multitude would disperse.

The jury had found that there was both a Scottish and an Irish marriage, and that the defendant was a Roman Catholic at the time thereof. What Church was privileged to include within its fold that rather black sheep is doubtful: the defendant himself said he was not a religious man; he admitted that he only attended Protestant worship when he had to do so officially with his men, and he "didn't recollect" whether, as Theresa swore, he went with her frequently to Mass. Some of his

relatives were certainly Catholics. The verdict of the jury, however, could not affect the legal status of the parties, which depended upon the fiat of another tribunal.

In the Court of Session proceedings there was an exceptionally strong Bar: the Lord Advocate (Moncreiff), the Solicitor-General (Maitland), Patrick Fraser, and David B. Hope, appeared for the lady; the major being represented by Edward S. Gordon, George Young, and John Millar—counsel of eminence, who later rose to the judicial Bench. The proof in the conjoined actions, heard by Lord Ardmillan in the Outer House, consisted of the evidence and correspondence of which I have given an outline. The Lord Ordinary, having heard counsel, on 3rd July 1862 gave judgment; his Lordship found, in Theresa's action, that she had failed to prove she was the wife of the defender, and therefore assoilzied him; and, in the major's, decerned against Theresa conform to the conclusions of his action—in each case with expenses. In a note his Lordship exhaustively reviewed the whole circumstances, and decided against Theresa on every point both in fact and in law. Apart from the legal aspect of the case, there were, popularly, two views of that lady's character: one regarded her as the victim of a profligate and perfidious scoundrel; the other, as adventuress ambitious of a titled alliance, and not over-scrupulous as to the means of attaining it. The Lord Ordinary took the latter. It is to be observed that his Lordship had not the advantage of seeing and hearing the parties in the box.

Theresa, of course, reclaimed; and the case was argued at great length before the First Division, then consisting of three judges, the Lord President (M'Neill) and Lords Curriehill and Deas. At the conclusion of the debate Lords Curriehill and Deas were clearly of opinion, on the questions of marriage by *de præsenti* mutual consent and by promise *subsequente copula,* that the pursuer had made good her case. The Court was not asked to decide as to the validity of the Irish marriage, which was reserved, if necessary, for "another place," and the ground of habit and repute was abandoned in the Inner House. The Lord President, on the other hand, held that in either of the alternative views presented, the

pursuer had failed. Accordingly, on 19th December the Court found that the parties were lawfully married persons, and assoilzied Theresa from the conclusions of the major's declarator. Thus, so far, the opinions of the Scottish judges were equally divided.

Yelverton having carried the case by appeal to the House of Lords, on 6th April 1864 it came before the Appeal Committee, namely, the Lord Chancellor (Westbury) and Lords Brougham, Wensleydale, Chelmsford and Kingsdown. After hearing the arguments for the parties, the Lord Chancellor and Lord Brougham concurred with the majority of the judges in the Court below. Their Lordships were of opinion that there was evidence of a marriage by *de præsenti* engagement, and *a fortiori* of *sponsalia de futuro,* which, followed by *copula,* made a marriage. The other three Law Lords held that there was no evidence of a marriage constituted in Scotland *per verba de præsenti,* or by written acknowledgment; and that there was no evidence of a promise of marriage made in writing in Scotland to support an action of declarator on the subsequent cohabitation of the parties. The interlocutor of the First Division of the Court of Session was therefore reversed, and that of the Lord Ordinary affirmed. Thus by one vote in nine the Hon. Mrs. Yelverton became Miss Longworth again, and lost much besides the coronet of Avonmore. It was a near thing for the pseudo-bigamist.

When the Court of Session met in November, Major Yelverton presented to the First Division a petition, praying the Court to apply the judgment of the House of Lords. At the same time a note was lodged for Theresa, craving leave to put in a condescendence of *res noviter.* The new facts proposed to be proved were as follows:—The Hon. Frederick Yelverton died in February 1860. To him, during his illness, his brother the major admitted that he had married Miss Longworth in Scotland, and renewed his marriage vows in Ireland. This acknowledgment was made in presence of a sick-nurse, Sarah Mallins, who herself died in Janaury 1862. Before her death she informed the Rev. Mr. Campbell, rector of Kilderry, who in August 1864 communicated the fact to the petitioner. It was further alleged that Yelverton

had made similar admissions to his father, and to other relatives and friends of the family, whom it was now proposed to examine as witnesses. After discussion, on 10th December 1864 the Division unanimously refused the note and applied the judgment of the House of Lords. The Lord Advocate then tendered on behalf of his client a minute of reference of the whole cause to the oath of the defender, such reference being competent, with the authority of the Court, at any time before extract. Four grounds of exception were pleaded on behalf of the defender:—(1) That to sustain the reference might compel him to depone *in suam turpitudinem* by admitting the crime of bigamy; (2) that such reference was incompetent after judgment by the House of Lords; (3) that it would prejudice the interest of third parties, *i.e.*, Mrs. Forbes and her issue; (4) and that, even if competent, the Court in their discretion should refuse it. After argument, the Division, Lord Deas dissenting, refused to sustain the proposed reference to oath. In the course of a long and learned opinion his Lordship gave good reasons for taking a different view from his brethren. So Theresa lost the last trick after all, and the major won the rubber; but the honours remained with the lady.

When so great luminaries have shed upon this juristic puzzle such disparate and distracting lights, it were presumptuous to employ the mere gleam of private judgment; but at least one may be permitted to form an opinion on the merits. The affection of Theresa, it seems to me, was from the first honest, though imprudent; Yelverton, too, was in love, but with a difference. It is difficult to accept his statement that his intentions were throughout dishonourable; more probably the lady's romantic character and the unconventional course of their loves tempted him, a man of strong passions and unused to self-restraint, to propose an irregular alliance. When, however, he found her virtuous resolve impregnable, he grudgingly agreed to her terms. It is unlikely that so wary a man of the world would have run the risk of going through the religious ceremony in Ireland, if, as he alleges, he had already effected his purpose; nor, if he deemed that ceremony a farce, would he have given the lady his name and allowed her the apparent status of a

wife. With reference to the distortion of certain passages in her letters, Theresa, in her preface to *The Yelverton Correspondence,* shrewdly observes: "Shakspere, could he arise and read his commentators, would not be more astonished than I have been upon learning the interpretations put upon what I wrote. The Frenchman's translation of the witches' salute, 'Hail, all hail!'—*grêle troujour, grêle,* because it always snows in Scotland—was a slight mistake in comparison with the assumption that two persons, deeply attached to each other, met in a church, knelt down at the altar whilst the officiating minister performed the marriage service—for the express and absolute purpose of *not* becoming husband and wife." The major's avowal notwithstanding, I incline to think him less black than, for his own purposes, he painted himself, and conceive his repudiation of the marriage to have been an afterthought, suggested by his pecuniary embarrassments, the sedative effect of ten months' matrimony, the prospect of making a better match, and the knowledge that his bonds might, after all, be breakable. It can scarcely be doubted from the later correspondence that the lady at least believed herself married, and that Yelverton thought himself bound to her by a tie that was not one of dishonour. His acquaintance with the laws of man, of which he boasted to Mrs. Stalker, was probably upon this point recent.

After the Irish trial Major Yelverton was suspended from all military duties; in the following month he was placed on half-pay and removed from the effective list of the Royal Regiment of Artillery. In 1870 he succeeded his father as fourth Viscount Avonmore, and died at Biarritz on 1st April 1883.

Even her enemies must have pitied Theresa, bereft at once of fortune and fair fame. But she lacked neither sympathy nor friends; her means having been engulfed in the long and costly litigation, a subscription on her behalf was raised in Manchester, her native city. To increase her slender resources she gave a series of readings in various provincial towns, and in 1866 she read for the first time in London at the Hanover Square Rooms. In the following year she went to the United States. Her remaining years were spent in travel, in the course of

which she visited many lands, her wanderings being, as she tells us, "guided rather by the dictates of my fancy than by the instruction of Bradshaw or the experience of Murray," and published accounts of her adventures, both matrimonial and geographical.

As might have been expected from her letters, her literary output was considerable. In addition to editing the famous *Yelverton Correspondence* (1863), she told the story of her life in *Martyrs to Circumstance* (1861), and *A Woman's Trials* (1867); then followed *Zanita: A Tale of the Yo-Semite* (1872), *Teresina Peregrina, or Fifty Thousand Miles of Travel Round the World* (1874), and *Teresina in America* (1875). Despite the law, she never struck her flag, and her books bore upon their respective title-pages the name of Theresa Yelverton, and, after 1870, of Viscountess Avonmore. Her passionate pilgrimage was completed at Pietermaritzburg, Natal, on 13th September 1881.

This romance of reality attracted other pens; and in *Gentle Blood, or the Secret Marriage* (1861), by J. R. O'Flanagan, and *A Wife and not a Wife* (1867), by Cyrus Redding, the curious will find set forth, under a thin disguise of fiction, the moving tale of Theresa's tribulations.

NICOL MUSCHET: HIS CRIME AND CAIRN

" Remember Muschet's Cairn and the moonlight night! "
—The Heart of Mid-Lothian.

To lovers of Jeanie Deans—and every leal Scot should wear with Dumbiedykes and Reuben Butler the colours of that plain but admirable heroine—the admonition is superfluous: they are little likely to forget the circumstances of her mysterious midnight tryst. Her knights, I believe, are nowadays recruited mainly from the ranks of the sober middle-aged, who amid the baggage of the years have retained some relics and remembrances of youth; for I am given to understand that the intelligent young of our time either " can't read Scott " at all, or only essay the more historical of his tales as (Heaven save the mark!) a holiday task. This is made matter of reproach to our rising generation, who are branded by grave seniors as frivolous and idle-minded, incapable of judgment, their taste debauched by picture-houses and the orgy of cheap sensation obtainable at any bookstall. But I sometimes doubt whether in this regard our children are more blameworthy than were their wise begetters at the same age, because the best of Scott, which deals with the manners of his countrymen and the traditions of his native land, is so supremely good that it takes an experienced palate to relish the full rich flavour. Were the boys and girls of his own day bound by the Wizard's spell, and subject to those enchantments wherewith their parents were enchanted? I question it; and of a truth some things in the Waverley Novels that seemed to me as a lad to lack interest, have long since become a source of wonder and delight. So perfect, for example, are all Sir Walter's legal characters and scenes, one would think only a Scotsman, and a Scots lawyer, could truly appreciate their excellence—which says all the more for the discernment of his admirers beyond the Border.

Be that as it may, everyone who has read *The Heart*

of Mid-Lothian must recall how Jeanie Deans was summoned by Effie's lover to meet him at midnight at Nicol Muschet's Cairn; how the Rev. Mr. Butler, to whom the message was committed, judged from the unhallowed nature of the spot that he had held converse with the Accuser of the Brethren; and how Jeanie, fearful yet steadfast in her duty, presented herself at the appointed place. What there befell is so dramatically told as to seize the imagination of the dullest reader. The wild figure rising from behind the heap of stones which commemorates a deed of blood, the girl's sharp temptation to perjure herself to save her sister's life, the weird strains of Madge Wildfire's warning lilt, echoing among the lonely crags as the pursuers steal upon their prey—these form a picture that lingers in the mind long after the book is closed. Sir Walter added a brief note telling who Nicol Muschet was, and why his cairn was regarded with superstitious dread. But, Oliver-like, I always wanted "more." The sinister shadow of the dead murderer stirred a curiosity which the present paper is written to satisfy, so far as may be, and in the hope that other readers have experienced a similar need. Some, perhaps, will be disposed to liken my labours to those of Mr. Curdle in his famous pamphlet of sixty-four pages, post octavo, on the character of the Nurse's deceased husband in *Romeo and Juliet;* yet I trust that the result, if less profound, may prove more relevant and instructive.

What we know of Nicol Muschet and his ways, apart from the judicial record of the proceedings against him and his accomplice aftermentioned, is chiefly derived from his own pen. "The Last Speech and Confession of Nicol Muschet of Boghal, who was execute in the Grass Market of Edinburgh the sixth day of January 1721," contains, as its title-page informs, "a briet Narrative of his Life, his Declaration or Confession before the Lords of Justiciary, a full Account of the Manner of the Contrivance and Perpetration of his Crime; together with Reflections upon the preceding Passages of his life, declaring his Sense of his Sin, and the Lord's gracious Way of Dealing with him during his Imprisonment. All written and signed by his own Hand. Exactly printed according to his subscribed Copy." This

is stated to have been signed by the author in the Tolbooth of Edinburgh on the last day of his life, and was printed and sold the same month in a small quarto pamphlet by John Reid "in Pearson's Closs, a little above the Cross." It was later reprinted in post octavo without printer's name or date, and with the addition of certain letters written to and by Muschet, while a prisoner; and was again published in the same form, with a new title-page and no imprint, but "Entered According to Order," and described as "Being one of the greatest and most penitent Speeches ever was Published." A new edition appeared in 1818, printed at Edinburgh for Oliver & Boyd; William Turnbull, Glasgow; and Law & Whittaker, London, and containing, in addition to the former matter, a short preface. Some copies of the quarto pamphlet conclude with a Latin acrostic on Muschet, to which I shall return. There may be other editions of the Confession, but these are all that I have seen. As one not unfamiliar with Scots criminal annals I venture to affirm that they exhibit no instance of infamy more foul than the conspiracy thus unblushingly laid bare.

Of Nicol Muschet's parentage and patrimony no account, so far as I am aware, has hitherto been published, and I have thought it worth while to supply the deficiency. Such particulars as I am now able to give, being somewhat technical, are relegated to a note.* It is sufficient here to state that Nicol was the eldest son of Robert Muschet, owner of the lands of Boghall, lying within the Parish of Kincardine in Menteith, Stirlingshire, and Jean Muschet, his spouse. The date of his birth is unknown, but he was baptised at Kincardine on 13th August 1695. He had the advantage to spring, he tells us, from godly parents, "eminent where they lived for Piety." Fortunately for them it appears that Nicol, though he describes himself as "their only Darling," was not their sole issue. His father died when he was a boy just entering the local grammar school, and he succeeded to the paternal acres in 1st March, 1710. His mother, who was careful to have him trained up "in the true

* *Note I.*—Nicol Muschet's Ancestry.

Presbyterian Principles of Religion," likewise "war'd liberally on his Literature," and was very diligent to cause him haunt the company of the godly; whereto, says Nicol naïvely, "so long as I was in her Sight, I adhered." With regard to his religious duties, however, he confesses that, like Pharaoh's chariots, he drove very heavily, and it was with considerable relief that in the ripeness of time he left home to attend the College at Edinburgh. He was destined for the medical profession—

> Bred up in Learning, and the Surgeon's Skill,
> Which learns the Way to cure and not to kill,

as his Elegy has it—and having completed the required curriculum, in 1716 became apprenticed to Thomas Napier, surgeon in Alloa. During his student days he lodged, according to Wilson's *Memorials of Edinburgh,* in the upper flat of the Auld Cameronian Meeting-house, near the head of Blackfriar's Wynd, the lintel of which bore the inscription, "In the Lord is my Hope." Despite this pious sentiment the lad began, as he says, to play the Prodigal, and chose his company "without ever consulting God or eyeing his Glory." At Alloa the disciple of Galen continued his wicked courses, though doubtless there the opportunities offered were fewer than in the capital. "Walking, talking, idle Discourse, reading Plays, Romances or the like" on the Sabbath day, led to drunkenness, and "other vitious Practices which the Heat of Youth, by Spate of natural Corruption, is too apt to fall into." There was little doing in the Alloa surgery, so Nicol left his master, mostly for want of business, partly for other reasons unspecified, and returned to his mother's house, resolving henceforth to live the life of a country gentleman; but after a few weeks at home his professional zeal was, he avers, rekindled by notice of a dissection at Edinburgh, and in August 1719 forsaking rural joys he hastened to the city.

On the night after his arrival, while walking on the Castle Hill, he saw at the door of one Adam Hall's house a maid with whom, in his student days, he had some acquaintance. The damsel invited him to refreshment, and over a chopin of ale they fell to discussing old times.

Presently they were joined by Margaret Hall, the daughter of the house, whom Nicol had never seen before, and the maid withdrew, leaving her mistress to do the honours. Of Muschet's courting of the hapless Margaret we have only his version, and the allegations he makes against her character, designed to mitigate his own guilt, are countered by the fact that throughout she retained the friendship of her mother-in-law, a good woman. His case is that the girl, as the phrase goes, set her cap at him; yet he asserts that at this their first meeting "she told him a great many things, particularly her Amours with one Andrew Henderson," and conducted herself with a freedom which "wearied" even the brisk young surgeon. On learning that he had not yet found lodgings, she recommended him to the house of John Murray in Anchor Close, whose wife was her friend, promising to call on him there when he was settled. "And truly," says the ungallant laird, "to my sad and lamentable loss, she made me too many Visites." She was, he admits, accompanied on these occasions by another young lady, to whose reputation, however, he is no kinder. So importunate indeed, as he alleges, became the damsels' attentions that he was ashamed and shunned their company. Curiously enough, his next step was to make formal application to Adam Hall for his daughter's hand, and the father, though holding Margaret "not yet fully educate for Marriage," allowed the intimacy to continue.

Muschet was now employed in the shop of Mr. Gibb, surgeon, a position in those days by no means derogatory to his lairdship; and among his boon companions was Archibald Ure, goldsmith in Edinburgh, who hailed from his part of the country. This man, actuated, according to Nicol, by motives of self-interest, pressed him to marry, and generously offered to supply the ring, and anything else his shop could afford, either with or without money. Muschet reluctantly agreed, and on the night of Saturday, 5th September, he and Margaret Hall were made man and wife in the house of John Galloway, tailor in Peebles Wynd, by the Rev. Robert Bowers, an Episcopalian curate, who lodged at the wynd-head, "the Deceast's Father not a little rejoicing, and Archibald Ure and some others being present." In surveying at a later

date the course of his career, Nicol severely blames himself for marrying upon so small acquaintance—he had known his bride less than three weeks—a person of whose piety and virtue he had so few proofs. "And how do I regrate my disorderly Method of proceeding in it," he writes, " contrary to the Order and Decency which Christ has appointed in his Church, and the good Laws of Men have established, and my celebrating it with such a Man and in such a Manner as corroborated and approved of the sinful Superstitions of the Church of England, contrary to my Baptismal and National Vows and, I must acknowledge, to the Light of my Conscience also." It is pleasant to note that despite his manifold delinquencies Muschet retained to the last such sound Presbyterian principles. Further, he takes occasion to protest against the wicked calumny, then current, that the sudden ceremony was insisted on by Adam Hall in reparation of his daughter's honour—a much more likely story than that of the bridegroom.

After the marriage the young couple lived for a time with the bride's father on the Castle Hill, but by the following November Nicol, having decided to desert his wife, left her, intending to " improve himself abroad " as a surgeon. He had already quarrelled with the accommodating goldsmith over payment of certain articles of jewellery supplied to his wife—" For I very well understood, tho' too late, his Design in serving me by pretending such Friendship was only for Lucre's sake "—and was busy putting his affairs in order with a view to leaving Scotland, but the appointment of a factor to act in his absence was complicated by the laird's laudable desire to defraud his wife of her legal aliment from his estate.

While these matters were pending Muschet met a man cast by Fate to play Mephisto to our young surgeon's Faust—James Campbell, sometime of Burnbank, then ordnance storekeeper in Edinburgh Castle, whom Nicol, after enjoying for some months the advantage of his friendship, forcibly describes as " the only Viceregent of the Devil." There was an old plea between Burnbank and Muschet *père* which behoved to be settled before the son could leave the country, and over this business

the couple forgathered. Burnbank was a bad lot, and to his evil communications Nicol ascribes his own downfall; but, as we shall see, in point of villainy there was not much to chose between them. A noted gambler and libertine, Burnbank was well known to all the reprobates in Edinburgh by the familiar sobriquet of "Bankie." Though retaining the territorial designation, he had in fact sold his estate in 1712 to Colonel the Hon. James Campbell of Burnbank, third son of Archibald, Earl of Argyll. Burnbank had been in 1714 the unworthy cause of the Castle losing its ancient right of sanctuary. He was arrested therein for debt, but the Governor, Colonel Stuart, jealous of the privilege of his fortress, released the storekeeper, and expelled the messenger-at-arms. The creditor thereupon petitioned the Court of Session, which decided that the Castle had no privilege to hinder the King's letters, and ordained the debtor to be delivered up accordingly.

Advised of the matrimonial predicament in which his new friend had placed himself, Burnbank stoutly combated Nicol's purpose of absconding, and undertook, for a consideration, by means of a fraudulent action of divorce, to free him from his distasteful bonds. Muschet thus describes the unusual nature of the transaction: — "First having entered into Obligements one to another, by giving him money to carry it [*i.e.*, the conspiracy] on, together with a Bill for 50 Lib. Sterling which he got for his labour, and by his giving me his Obligement, which is at present in James Russel, Procurator's, Custody, not to require any of the said 50 Lib. from me till he procured sufficient Evidence against her." The oblgation, embodied in a formal deed, is sufficiently curious to warrant quotation: —

Be it kend till all men by thir present letters, me, James Campbell, Ordnance Storekeeper at Edinburgh Castle: Forasmuch as Nicol Muschett of Boghall is debtor to me in three years rent of his lands, viz. cropt ninety-five, and precedings, and that I have transacted the same for nine hundred merks, Scots money, for which there is bill granted me. Therefore, I hereby declare I am not to demand payment of the said sum untill a legal offer be made him of my discharge of all I can claim of him, and give him up, or offer so to do, all his papers

on oath: As also, of two legal depositions, or affidavits of two witnesses, of the whorish practices of Margaret Hall, daughter to Adam Hall, merchant in Edinburgh, and three months thereafter. In witness whereof, I have written, with my own hand, on stamped paper thir presents, at Edinburgh, the twenty-eighth day of November, one thousand seven hundred and nineteen years. JAMES CAMPBELL.

After much thought devoted to "concerting wicked measures against the Defunct," Nicol wrote in opprobrious terms of Burnbank's dictation a letter to his wife, stating that he had taken horse for London, and that she would never see his face again. "To make it clink the better," they dated the missive from Newbattle, and despatched it by a caddie "to the care of Mrs. Thom, Mercatrix at the Bowhead," where Mrs. Muschet lodged. Their amiable object, as explained, was to cause her to despair, that she might more readily enter into temptation. Meanwhile her husband, in his own phrase, lurked in the house of one Alexander Pennecuik, "for present in the Abbay." I shall return to Mr. Pennicuik later. The Abbey was that part of the Canongate east of the Horse Wynd and the Watergate, within the Sanctuary of Holyrood, chiefly occupied by debtors and other persons at odds with fortune. You remember it as affording refuge to Mr. Chrystal Croftangry, in *Chronicles of the Canongate.*

The young wife, believing herself deserted, resolved "to take a Trial of the Country" with her mother-in-law. Doubtless she meant to state her wrongs to that lady, whom it does not appear she had yet seen. Apprised of her purpose, Burnbank did his best to dissuade her, promising to trace the runaway, and to arrange a suitable provision for her maintenance; "but notwithstanding, she went off with the Carrier." If she distrusted Burnbank, the sequel surely justified her fears. That worthy, receiving notice of her going, "hired one Andrew Shiels, Writer, to pursue her, together with himself," and having obtained a warrant from a county justice, the Laird of Majoribanks, to apprehend her on suspicion of theft, they tracked her to Linlithgow, "travelling all the way under Cloud of Night, being so eager on their pursuit, having taken Horse at the two Penny Custom-house about 11 o'clock at Night." The alarmed lady, aroused from sleep by the writer, "who pre-

sented a Baton as Constable to incarcerate her for Theft," was much relieved by the timeous appearance of the friendly Burnbank, to whom she appealed for aid. That gentleman expressed great concern "that any of his Countrymen's Relations, especially such as she, should be so used"; his offer to "bail her to Edinburgh" was accepted by the writer, and the party returned amicably to town, where Burnbank took her to "one Lorn's, at the Back of the Wall," gave her some money, and charged the landlady to let her want for nothing. On reflection, the object of his solicitude must have seen reason to doubt her benefactor's good faith, for in a few days she made her escape, and having hired a horse, reached her mother-in-law's house in safety. So Burnbank, who was a plausible scoundrel, despatched "a considerable long Letter, promising many fair Things," whereby the foolish woman was induced to come again within the scope of her enemies' machinations.

The plot of which she was the destined victim—well described by Muschet as his "hellish Project"—is of an atrocity so shocking as to render any detailed account of it here impossible. It is sufficient to state that Muschet, Burnbank, and Pennecuik, having inspected various houses, selected that of Bailie Smith "in the Abbay" as most convenient for their purpose; that Mrs. Muschet was persuaded to lodge there; that on a certain Monday night in the end of December 1719, Burnbank and Pennecuik induced her to swallow a quantity of laudanum, with brandy and sugar "by way of Stocktoun Drops," whereby she became unconscious; and that Burnbank had "made it his business to provide one John MacGregory, Professor of Languages in the Canongate," to sustain the rôle of Iachimo. Apart altogether from the character of the scheme, two points strike one as remarkable: the choice of a magistrate's house for the venue, and the academic calling of the hired villain.* It is satisfactory to learn from Muschet that the plot failed; "for after we informed our Procurator, James Russel, of all we could do, he told us unless we could Evidence a Tract of Conversation betwixt MacGregory and her either before or after the Fact, we

* *Note II.*—Professor MacGregory.

could never make anything of it." For the credit of the profession let us hope that the lawyer was misled, but as he was the repository of the Burnbank "band" above cited, I fear that Mr Russel was "other than a gude ane."

Among the undesirable acquaintances whom the Laird of Boghall seems to have had a genius for acquiring, honourable mention must be made of James Muschet, "Piriwig-maker in Edinburgh," and Grissel Bell, his spouse. This man has been called a brother of the laird, which is clearly a mistake; he may have been, and probably was his kinsman. The wigmaker and his helpmate were in reduced circumstances, and "for a Piece of Money" the couple agreed to further Muschet's dastardly design against his wife, "which James did by carrying MacGregory several Times to her Room at Night, and drinking with her." But Nicol, finding that his instruments were "very indifferent" unless daily supplied with funds, and having incurred considerable expense "both in frequenting Burnbank's Company, hiring MacGregory and sustaining James Muschet and his Family," began to lose heart. Their operations produced for him no result beyond constant appeals to his pocket, and as the procurator's opinion was discouraging, he "intirely gave over that Thought." So the Professor of Languages resumed his more legitimate labours, and the divorce proceedings were dropped.

But Burnbank was not yet at the end of his resources; he advised that the best way to get rid of Mrs Muschet was "to exhibite to her Poison," and that "the only proper hand for it" was James Muschet, who, when it was proposed to him, very readily undertook the job. Burnbank recommended the employment of corrosive sublimate as a safer medium than arsenic, "on Account Arsenick both swelled and discoloured." Such knowledge smacks rather of the surgeon than of the storekeeper, and indeed Nicol implies that he himself furnished the poison, for James, fearing that the laird had given him arsenic instead of mercury, consulted a local chemist, who reassured him on the point. Burnbank approved his caution, remarking that people on such enterprises are never too much aware. The mercury, mixed with sugar, was "on a Sabbath Night" duly administered to Mrs Muschet in a dram; she

became violently sick, "so that life was not expected for her," and James, "all trembling," reported to his principal, "By God, she has got it now!" But the victim rallied, and the two miscreants sought counsel of Burnbank. They enquired for him at the Castle Gate. "The Porter sent a Man who brought him down," says Nicol, "and we walked a considerable time on the Castle Hill; and Burnbank's Advice was, to continue it, so that when she was rendered very ill with one Dose, another might carry her off; which accordingly was done, but not with expected Success." The lady having become shy of sugar, Muschet put some of the poison in a nutmeg-grater, obligingly lent by Burnbank, with which James pretended to add a zest to her liquor. The grater looked "as if it had been burnt in the Fire by Reason of the Mercury corrosive," when James later presented it to Pennecuik as an interesting souvenir; but the lady still survived. Then James's wife tried her hand with poisoned meal introduced into warm ale, yet without putting a period to the patient's sufferings.

In view of these repeated failures Burnbank proposed to revert to his original plan, with a change of scene to a gardener's house in the suburbs, and with James, "under the name of Mr Stewart, a Country Gentleman not agreeing with the Town Air," in the part for which Professor MacGregory was originally cast. Apparently even Nicol's depravity had its limits, for he opposed the scheme. He had hitherto remained lurking in the background, but now by Burnbank's advice he rejoined his wife, who was still confined to bed, and the poisoning began again, "in Sack and Cinnamon as a Cordial after her sickness," with the husband as ministering devil. "All these preceding Projects failing, Burnbank advised to commit yet more Wickedness," the new purpose being that James should carry the lady to Leith some afternoon, "and drink with her till it were very late," and on their way home drown her in a pond. Burnbank mentioned two places as suitable, both on the north side of the south walk to Leith, "which," says Nicol, "he and I went on a Sabbath Day to see," and approved; but James would not "condescend" to the device. He offered, however, to try an idea of his wife's: to take Mrs Muschet "on pretence of kindness" to the West country, riding on a pillion behind him, and by

loosening her pad, to throw her off as they forded Kirkliston Water when in flood. " Burnbank, not thinking this proper, gave advice for James to knock her on the Head and throw her into some Hole without the Town, and immediately thereafter to flee to Paris; which in no Ways he would condescend to." So matters were at a deadlock, and presently the laird fell out with Burnbank " by Reason of his keeping up his [Nicol's] Papers," and the attempts on Mrs Muschet's life were meantime discontinued.

In the spring of the following year, however, the campaign was reopened with fresh vigour. Nicol and his wife, who had recovered from her illness, were living in Dickson's Close, in the High Street, above the Nether Bow, while James and his helpmate occupied a room at the head of the adjacent St. Mary's Wynd. After much debate the conspirators could think of nothing better than Burnbank's last suggestion, namely, " to knock her on the Head when going down Dickson's Closs late to her Room." This This course agreed to, in May 1720 the parties " deeply conjured " themselves never to discover the plot, and, undismayed by former failures, set about arranging details. James and his wife were to get twenty guineas for " right executing " the project, for which amount, says Nicol, " he sought my Bill, alledging himself not sure without it." Of this sum Muschet presently advanced to James one guinea, " which he gave to Mr James Ure, Writer, to give to the Kirk Treasurer," and afterwards " Half a Guinea to bury his Child, with 16 Shillings Sterling to turn his Cloaths, a little before the fatal Accident happened "— a delicate allusion to the murder. James's private recreations seem to have incurred the fine and censure of the Kirk, but the occasion is unrecorded. For the rest, in whatever state his garments were, he had obviously more need to turn his heart. The general plan was as follows: — Mrs James undertook to invite Mrs Muschet to her room of an evening and keep her there till eleven or twelve o'clock, " by affoording her Meat and Drink, and intertaining her with flattering Discourse "; James meanwhile would lie in wait for her return and attack her in the dark entry of the deceased Dickson. That part of the alley which was to be the scene of the proposed slaughter still exists for the satisfaction of the curious. So much for the

place, but the instrument was yet to seek. Mrs James borrowed a heavy hammer-head from a neighbour, and James got a piece of wood from a wright in Moutrie's Hill, which he fitted as a shaft to the head, hurting his hands in the process. It was arranged that after the deed he should throw away the head, and take the shaft home and burn it. Several times did Mrs Muschet accept the perilous hospitality of St. Mary's Wynd; "but always when James followed her to give her the Stroke in the dark Closs, some Body going up or down prevented it."

About the time of the harvest the subject of these abortive measures took a much-needed holiday in the country; nothing further could be done till her return, and Nicol, losing hold of hope, proposed that the enterprise should be abandoned. But Grissel Muschet, with a force of character reminiscent of Lady Macbeth, argued, "Is it reasonable, think you, so to do, when my Husband and I have wared so much Time and Pains to accomplish that Design, and in Expectation of our Reward, now to give it over?" The laird yielded to the lady's logic, and the business was resumed by her and James; but Mrs Muschet "wearied to stay so oft and so long in their Room," and they reported that unless Nicol came with her himself, it was not in their power to keep her there so late. This was the beginning of the week before the unfortunate woman was finally disposed off; as in the case of King Charles the Second the ceremony had been unconscionably delayed. For several successive nights her husband performed his hateful office, but fate was still against him. James's landlord would not suffer the guests to stay in his house after ten; James, "waiting her as formerly, some Times did not see her, and some Times was prevented by the People walking in the Closs; and by waiting her so late for some Nights before, was seised with a violent Toothach, which occasioned him to keep his Room for two or three Days." Pity the woes of the assassin, hugging his hammer and counting the hours in that cold black passage, with the shrewd blasts of an Edinburgh October night for company!

Thus far, the only explanation of Muschet's amazing tale seems to be that he was throughout the dupe of his accomplices, who merely pretended to forward his infamous

plots so long as money was to be made by them; if not, then surely James was the most inept murderer that ever wielded weapon.

It is probable that Nicol himself at length realised this, for, leaving James to nurse his toothache, he decided to take the matter in his own hands: "The Devil, that cunning adversary, suggested to me, being now hardened and also desperate by all the foresaid Plots failing, that it were but a light Thing whether he or I were the Executioner." It chanced that "upon Sabbath was Eight Days before the Fatal Act," Nicol Muschet sat in the Canongate Church, that forbidding barn, hearing sermon. The prelection was upon the Sixth Commandment, of which the minister treated "in a very pathetic manner," displaying the exceeding sinfulness of shedding innocent blood. After sermon the gentleman whose pew Nicol shared invited him to qualify the discourse at Barnaby Lloyd's house in the Canongate, apparently one of the few taverns with which the laird was unacquainted, and whence a week later he was to lead his wife to her doom; "which Concurrence of Circumstances," he observes, "tho' not then regarded by me, now plainly convinces me that in the Righteous Judgement of God these very Means which tend to the deterring of others from Sin, had quite the Contrary Effect on me." He seems to have recognised that he was a hard case.

On Monday, 17th October, Nicol Muschet began the day by borrowing a knife from his landlady, Mrs Macadam. He and James, now happily restored to health, dined together, and meeting with some congenial company, diverted themselves till nightfall. A message was then despatched to Mrs Muschet by a caddie, summoning her to Lloyd's, and after her arrival James went off upon his usual draughty night duty, viz., "to wait her as formerly in the foresaid Closs with the Hammer." No sooner was he out of the way than Muschet, bidding his wife follow him and ask no questions, left the house. Down the Canongate went the silent pair, across the Abbey Close, and passing the Palace of Holyroodhouse, entered the bounds of the King's Park.

Before we accompany them farther it may be well to contemplate for a moment the scene of the ensuing tragedy.

The King's Park, although as a royal domain immune from the obscene hands of the speculative builder, could not escape the common lot of things earthly, and that part of it with which we are concerned has seen some changes since Nicol Muschet's time. The ruined chapel of St. Anthony the Eremite yet dominates the Haggis Knowe, and on May Day the damsels of Auld Reikie—if in this degenerate age the fashion be not forgot—may still "weet their een" at his holy well, where it bubbles from its ancient source on the braeside, beneath the majestic bulk of Arthur's Seat, rising unchanged and unchangeable in the track of the devouring years. St. Margaret's Loch below, in whose waters the scene is now reflected, is an innovation, dating only from 1857, and her rival well was brought hither from Restalrig but a few years later. The present carriage road to Jock's Lodge has superseded the oak-shaded footway named the Duke's Walk, once the favourite promenade of James, Duke of Albany and York, when in 1680-81 he kept court at Holyrood; and the modern parade ground has obliterated the enclosure named St. Ann's Yards, together with the woods and house of Clock Mill, which of old occupied the area between the Palace and the north-eastern boundary of the park.

As the couple, having left the Abbey precincts, were crossing St. Ann's Yards, "She weep'd," says Nicol of his wife, "and prayed that God might forgive me if I was taking her to any Mischief." She begged him to return, but he said he was bound for Duddingston, and swore that if she did not go also, she should never set eyes on him again. So the hapless woman, who, strangely enough, in spite of all his ill-usage, plainly had an affection for her husband, went on with him to the end. When they entered the Duke's Walk she remarked that was not the way to Duddingston, upon which Muschet said he would "lead her another Way than the Road thro' the middle of the Park," *i.e.* round the eastern flank of the hill, instead of by the direct path over the Hunter's Bog. They reached the chosen place, "which was near to the east End of the said Walk"—I shall consider its exact position presently—and there in the black night, between the Whinny Hill and the deserted fields, Margaret Hall was brutally done to death. The particulars are too horrible

for recital; suffice it to say that Muschet only effected his purpose after a severe struggle, and but for his wife's long hair, by which he held her down, he declares that he could not have overcome her resistance. I spare the reader the canting comments of the murderer. His end accomplished, Nicol fled from the fatal spot, but when he came "near to the Tirlies at the Entry of the Duke's Walk from St. Ann's Yard," he bethought him that, despite his violence, his victim might yet survive; so he returned to "mak' sicker," which done, he again sought the city by the way he came. The Tirlies are defined in Pennecuik's *Streams from Helicon* as "The narrow Wicket, which delivers in To the Duke's Walk" from "Saint Anne's flow'ry Park." Muschet states that, such was his condition after the murder, he forgets what further he did and said that night; but he admits that he boasted of "the horrid Wickedness" to James Muschet and to his landlady, Mrs Macadam.

The discovery of the crime next morning is set forth in the depositions of the witnesses at the magisterial inquiry into the affair. Isobell Stirling, relict of John Steuart, workman in Abbeyhill, declared that on Tuesday, 18th October, about ten o'clock forenoon, being in the Park, she saw at the east end of the Walk a woman lying dead in a very dismal posture, "having her throat cut into the very neck-bone, and her chin cut, and one of her thumbs almost cut off, and found her to be also cut in the breast in several places, and also in the other hand very barbarously, and found some hair in her hand, but could not distinguish the colour by reason of the blood, and saw an Holland sleeve of a man, lying just next to her, bloody, having the letter N sewed with green silk thereon." James Steuart, servant to Widow Bortleman at the Watergate, declared that on the same date he saw at the east end of the Duke's Walk, within the King's Park, a woman lying with her throat cut, and having other wounds upon her, whom he, Robert Bagham, and others lifted from the ground, put on a bier, and carried from thence to the chapel at the Watergate; "and delivered to John Kelso, constable in the Abbey, the bloody sleeve lying by her, having the letter N sewed with green silk thereon." By whom the body was identified as that of Mrs Muschet does not appear.

Meantime Muschet, having consulted with James's wife Grissel, early that morning went down to Leith, where he spent the day "in the House of one James Lumisden, Sailor." After dark he returned to Edinburgh, and met Grissel Muschet by appointment at a close-head within the Nether Bow. She reported that "all Things were very well," and said he might safely go to his quarters; she also told him that she and her husband were determined to perjure themselves for his safety. Relieved by this assurance Nicol ventured out to a tavern near the Cross, but on his return home, finding that his landlady had been carried to the Guard House for examination, he immediately went back to Leith. Next day, Wednesday, 19th October, Muschet, accompanied by Mr Lumsden, came to Edinburgh and had a consultation in the Fleshmarket Close with one Hugh Hay, a writer. The man of law advised that if the laird could stand his trial it was not proper that he should abscond, but if not, he must do what he thought best; so Nicol, no wiser than many another client after a similar experience, withdrew again to Leith to reconsider his position. On Thursday, the 20th, James's wife, perceiving that the game was up, and that she and her amiable consort might now whistle for their twenty guineas, lodged information against Muschet with the magistrates, who sent a party of the City Guard to arrest him; but Nicol, relying on Grissel's loyalty, had left his sailor friend and removed to the house of James's mother-in-law, so that they failed to find him. On Saturday, the 22nd, Grissel, learning that he had taken refuge with her mother, informed the authorities of the fact, and, says Nicol, "came out with a Party about 8 o'clock at Night, with Andrew Jelly, her landlord; and was so well satisfy'd with her certainty of my being there, that she not a little rejoiced in Company of the Soldiers, and all the way she let none pass without asking who they were, fearing my Escape." Clearly a capable person, this Grissel. James, owing to a previous engagement with the Keeper of the Tolbooth, was prevented from joining the party. Apprehended and carried before the magistrates, Nicol denied all knowledge of the crime; but on one of the Bailies giving him a more distinct account of the whole circumstances than he could have done himself, "Conscience, that

great Accuser, would keep silent no longer": he confessed his guilt, and signed a declaration to that effect. At this time he said nothing to implicate either Burnbank or James and his wife, nor of the previous attempts upon Mrs Muschet's life, but confined himself to a brief account of the murder. The prudent James, who had plainly "split" upon his late employer, was released on bail, and retired to the country, where he remained until the laird's trial.

The judicial proceedings of which Nicol Muschet was the occasion are printed from the official records in that valuable little work, *Criminal Trials Illustrative of the Tale entitled "The Heart of Mid-Lothian"* (Edinburgh: 1818), edited anonymously by Charles Kirkpatrick Sharpe. On 28th November 1720 the pannel was placed at the bar of the High Court of Justiciary, charged with the murder of his wife. The judges present were Lords Royston, Polton, Pencaitland, Dun, and Newhall; the Solicitor-General (Walter Stewart), and John Sinclair, advocate-depute, with Duncan Forbes and Andrew Lauder, appeared for the Crown. The libel having been read, the pannel craved the Court to appoint counsel for his defence, and John Horn, John Elphinston, and Charles Erskine were accordingly empowered to plead for him. Several of the above names recur upon the trial of Captain Porteous, sixteen years later. On the 29th the libel was found relevant, "there being no defences proponed thereagainst," and the pannel was remitted to the knowledge of an assize. On 5th December, a jury having been sworn, the pannel judicially confessed and acknowledged the crime of murdering his own wife, as set forth in the indictment, whereupon the jury returned a verdict of guilty; and on 8th December sentence of death was duly pronounced, the pannel to be hanged upon a gibbet in the Grassmarket of Edinburgh between the hours of two and four o'clock afternoon on Friday, 6th January 1721. Owing to the course adopted by the defence no evidence was led, but James and his wife, as good citizens, were plainly ready if required to bear unimpeachable witness for the prosecution. "It seemed good in the Eyes of a just God," says Nicol, in commenting on his trial, "to restrain any of the Advocates from pleading on my Behalf."

No account of the final ceremony has been preserved,

but doubtless the miscreant made an edifying end. The expense of his removal, according to a note of the City Chamberlain's outlays on that occasion which has been preserved, amounted to £39, 14s. 8d. Scots.* After preliminary suspension in the Grassmarket, his body was hung in chains, on the Gallow Lee, at Greenside, by Leith Walk, a distinction conferred only upon the most flagrant offenders. When the New Town of Edinburgh was in course of building, the sand for the mortar was taken from the sandhill of which the Gallow Lee was composed. It is a pleasant fancy that Nicol's ashes, on the analogy of Alexander's dust, may yet subserve a useful purpose in helping to uphold our hearths and homes.

After his conviction Nicol Muschet addressed to the Lords of Justiciary a holograph declaration, printed from the original MS. in the volume above mentioned; this he afterwards incorporated, with some variations, in the public Confession on which I have so largely drawn. In the later document he amplifies the narrative of his misdeeds, and indulges in a vein of sanctimonious sentiment if possible more repulsive than his crimes. He forgives freely and frankly all offences done to him by Archibald Ure, Burnbank, and the Muschets, whom he describes as the only instigators and ringleaders of his wickedness; also such evil-disposed persons as had spread reports regarding his relations with his landlady, Mrs Macadam, his habit of inebriety, and his attempts to commit suicide while in prison, all which calumnies he most solemnly repels. He expresses gratitude to his judges for "mitigating the Pains" of his punishment—perhaps he expected to be broken on the wheel, like the murderer of the Laird of Warriston; he hopes that his mother and the rest of her children may be warned by his example to walk soberly, righteously, and godly, and concludes with an adieu to this vain transitory world, the stage of sinning and sorrow—"Welcome Heaven and Eternal Enjoyment!" Surely James Hogg's *Confessions of a Justified Sinner* owe some of their gems to the collection of Nicol Muschet. But it is always the same story: from the Black Laird of Ormistoun in 1567, to Hugh Macleod of Assynt in 1831—

* *Note III.*—Execution of Nicol Muschet.

the greater the criminal, the more confident his assurance of salvation.

On 21st November the prisoner's mother had addressed to him from Boghall a long and pious epistle exhorting him to repentance, but containing nothing to our purpose; and on 5th January 1721, the last day of his life, he received and replied to a letter from "his Soul's Well-wisher, Alexander Pennecuik," whose name the reader may remember in connection with what Nicol terms the "Abbay Plot." These letters were printed as broadsides and circulated at the time, the latter being entitled, "A Gentleman's Letter to the Laird of Boghall, The Day before his Execution, with Boghall's Answer." Pennecuik complains of being imprisoned as accessory to the murder on the strength of Muschet's declaration to the Lords of Justiciary, which he politely describes as "A Volume of Lies"; he conjures Nicol to clear his character and to declare his innocence, and wishes him in return a comfortable death. "You very well know," writes the laird in reply, "you was in Bailie Smith's, which in relation to other Things I could not escape to mention; in doing of which to the utmost of my knowledge, I have done neither you nor any other Injustice, as I am to Morrow to appear before the Supreme Judge." In an interesting paper contributed to the sixth volume of the publications of the Edinburgh Bibliographical Society, the late William Brown gives some account of the two Alexander Pennecuiks, uncle and nephew, both poets and often confused one with another. The uncle, a most respectable writer and doctor of medicine, was the author of *A Description of Tweeddale,* etc.; the nephew wrote *An Historical Account of the Blue Blanket,* also *Streams from Helicon* and other works, of the type euphemistically described in booksellers' catalogues as "curious." He is known to have been of dissipated habits and his end is chronicled by a brother bard, Claudero, as follows:—

> To shun the fate of Pennycuik,
> Who starving died in turnpike-neuk;
> (Tho' sweet he sung with wit and sense,
> He like poor Claud, was short of pence).

Mr Brown identifies this disreputable writer with the

friend and accomplice of Nicol Muschet on grounds which to me seem sufficient. He recognises the Pennecuik touch in the Latin acrostic, *ab amico quandam conscriptum,* to which I have before referred, as well as in a contemporaneous broadside entitled "Elegy on the Death of Nicol Muschet of Boghall, written at the desire of his Friends." The Elegy gives a vigorous sketch of Nicol's career, and tells how, having "drown'd Religion with the Juice of Malt," he compassed his wife's destruction: —

> To take her Life, a thousand Snares are laid;
> Sweet harmless lass, she's ev'ry day betrayed:
> At last, with SATAN, who had form'd the Plot,
> He leads her to the Fields, and cuts her Throat.
> I've plac'd his Sins in such a glaring Light,
> To make the Mercies of the Lord shine bright . . .
> Thus I've perform'd the Office of a Friend,
> Recorded his lewd Life, and pious End.
> O may all Youths take Warning, and conspire
> To loathe polluted Paths, which lead t'eternal Fire.

A further link, unnoticed by Mr Brown, is supplied by the poet's acquaintance with James Campbell of Burnbank, who, as Sir Walter Scott observes, is repeatedly mentioned in Pennecuik's satirical poems.

It was remarked by a reviewer of these narratives on their periodical appearances that my heroes had a habit of getting hanged; but unfortunately neither Professor MacGregory, Pennecuik, nor the Muschet pair was brought to justice for their respective parts in the conspiracy. It is, however, some consolation to learn that Burnbank did not wholly escape punishment. He was tried on 21st March 1721, as appears from an abridgment of the record, printed by Maclaurin in his *Criminal Cases,* upon an indictment charging him with violence, falsehood, and attempt to poison, or being art and part in those crimes, having, together with Nicol Muschet, hatched a most wicked and villainous design of bereaving Margaret Hall of her honour and reputation, and even of her life. The obligation to procure evidence for the deceptive divorce, the fraudulent arrest at Linlithgow, the "hellish project" of the Abbey, and the repeated administration of poison, form the grounds of the charge; nothing is said of the Dick-

son's Close scheme, or of James Muschet and his wife, though there is a general reference to accomplices. Probably the worthy couple had turned King's evidence, but what proof in support of the libel the Crown adduced is not recorded. For the rest, the facts are those with which the reader is familiar. The jury found Burnbank guilty; he was declared to be infamous and incapable of bearing or enjoying any public office, and was banished to His Majesty's plantations in America, never again to return to Scotland.

Notwithstanding divers ballads upon Burnbank's fate published as broadsides at the time—*e.g.* his *Sorrowful Lamentation* and last farewell to Scotland, and an *Elegy* on his mournful banishment to the West Indies, from which it appears that in addition to his other offences he had been in use, as ordnance storekeeper, to sell for his own profit the military stores—there is reason to fear that after all his native land was not rid of the ruffian. In 1722, while a prisoner in the Castle, he, and another, George Faichney, got hold of a man named James M'Naughton, whom having made drunk, they burnt " in a most indecent manner," for which outrage both were indicted. So late as 1726 Burnbank was still in the Castle, as may be inferred from a passage in the Wodrow correspondence, and it is probable that he never left the country, but died in confinement. Some further account of him will be found in *The Argyle Papers,* edited by Maidment (Edinburgh, 1834).

A word as to the *locus* of the murder. The exact site is, I fear, not now to be identified, for the existing cairn on the north side of the road, opposite the Keeper's Lodge at the north-eastern entrance to the Park from Meadowbank, while it commemorates the crime, does not mark the actual place of its commission. The original cairn, raised on the spot in execration of the deed at the time, survived until, as we learn from a footnote by C. K. Sharpe to the record of the trial before cited, " it was removed during the formation of a regular footpath through the Park, suggested by Lord Adam Gordon, then resident at Holyrood-house." This was in 1789, when his Lordship was Commander of the Forces in Scotland. In the 1818 edition of the Confession already mentioned,

the anonymous editor states: "The place where the deed was committed is on the north side of the footpath through the Duke's Walk, and within a few yards of the wicket which opens into the highroad from Jock's Lodge to the city. It was long marked by a cairn of stones, raised by passers by, expressive of their abhorrence of the crime, which was removed some years ago, when the footpath was widened and repaired."

Thus the memory of Muschet and his misdeeds was like to have been forgotten, but in June 1818 came forth *The Heart of Mid-Lothian,* and, incidentally, provided for him an imperishable memorial. Attentive readers of the tale will notice that Scott places the scene of the murder "beneath the steep ascent on which these ruins [of St. Anthony's Chapel] are still visible," that is, near the space now occupied by St. Margaret's Loch, and some two hundred yards farther west than the accepted site, but it is probable that he did so for reasons merely romantic, the nature of the ground there being more suitable, from the picturesque standpoint, both for the stalking of Robertson and for his effective evasion of the pursuers.

In 1822 the advent of George the Fourth, of magnificent memory, involved the Duke's Walk in further alterations. From the *Historical Account of His Majesty's Visit to Scotland* (Edinburgh, 1822) I find that the old road was again repaired, "and from the point where it comes in contact with Comely Gardens, to Parson's Green, was diverted to a line more to the southward." Finally, as appears from a passage in the *Edinburgh Weekly Journal,* cited, with a vagueness that defies verification, by James Grant in his *Old and New Edinburgh,* the cairn was restored in 1823, near the east gate and close to the north wall—where it now stands. "The original cairn," he quotes apparently from the *Journal,* "is said to have been several paces farther west than the present one, the stones of which were taken out of the old wall when it was pulled down to give place to the new gate that was constructed previous to the late royal visit." So the coming of that gorgeous Personage was after all of some benefit to posterity. Prior to that august event the cairn is unmarked in any of the

numerous plans of Edinburgh which I have examined, but by the following year it became a feature of these, and continues to be so even unto this day.

In the Author's Notes of 1830 Sir Walter writes of the cairn as "now almost totally removed in consequence of an alteration on the road in that place." Probably he was then unaware of its restoration, due to the revived interest in the spot which his novel had aroused. Those responsible for its re-erection would, I take it, place the new cairn as near as possible to the original position, which, as we have seen, had been superseded by the roadway, and was doubtless somewhat farther to the west. A tradition among the park keepers that it stood of old beneath the Haggis Knowe is obviously derived from the romance, and is but another tribute to the power and permanency of the Wizard's spell.

Note I.—Nicol Muschet's Ancestry.

On 27th October 1617 Nicol Muschet, second son of David Muschet of Callichat and Janet Henderson, daughter of Mr. Malcolm Henderson, minister at Kilmadock, his future spouse, received from the said David sasine of the lands of Boghall and half of the lands of McCorranstoun, called the Bog of McCorranstoun, in the Parish of Kincardine in Menteith; and failing heirs of the marriage, these lands were destined to Andrew, third son of the said David Muschet—*Stirlingshire Reg. Sas.*, vol. i. fol. 29. Of the marriage there were three sons, David, James, and John, and four daughters, Christian, Janet, Agnes, and Margaret—*Ibid.*, vol. vii. fol. 295; vol. x. fol. 397. David, the eldest son, apparent of Boghall, on 23rd June 1651 was infeft in the six merkland of McCorranstoun, on a charter granted by George Henderson of McCorranstoun with consent of his curators and of Margaret Muschet, his mother—*Ibid.*, vol. ix. fol. 28. He was apparently in the army, for he is designed Captain David Muschet of McCorranstoun—*Gen. Reg. Sas.*, vol. xi. fol. 270. His name frequently appears as pursuer or defender in legal processes, and on 4th October 1692 he was fined £60 Scots for "striking and blooding" Mr. Robert Muschet in Noriestoun—*Register of Menteith.* On 22nd November 1699 Captain David Muschet granted a disposition in favour of Mr Robert Muschet in Boghall, late schoolmaster at Kincardine, and Jean Muschet, his spouse, of the four merkland of Boghall—*Stirlingshire Reg. Sas.*, vol. xii.

fol. 16. Whether Jean Muschet his spouse was Janet, the sister of Captain David, is not known; but our Nicol Muschet, the eldest son of this couple, succeeded to the lands on 1st March 1710—*Ibid.*, vol. xii. fol. 465. The entry in the Kincardine Parish Register on 13th August 1695 recording the baptism of Nicol, son of Robert and Jean Muschet, unquestionably refers to him. His brother James served heir to Nicol on 1st February 1723—*Register of Menteith.*

Note II.—Professor MacGregory.

This singular scoundrel appears to have been at the time a character well known in Edinburgh. There is preserved in the Advocates' Library (*Pamphlets,* First Series, vol. 24) a remarkable broadside of four pages, small folio, entitled "Mr. MackGregory's Advertisement," which is announced as "to be seen in all the Coffee-Houses in Town, and Copies on't are to be had from the Author." The Professor's modest account of his accomplishments proceeds upon the narrative that "Mr. John MackGregory, Licentiat in Both Laws of the Faculty of Angers, having since the Peace of Ryswick at several Courses travel'd over all Europe, and over a part of Asia and Africa, as far as the River Euphrates, the Red Sea, and the Nile, and having had Extraordinary Occasions of Seeing and Observing every Thing Remarkable, both by Land and Sea, in the Orient as well as in the Occident . . . having liv'd at most of the Courts of Europe . . . and being now come Home hither to his own Country, does make Profession of Serving Gentlemen and Ladies by Teaching 'em MODERN GEOGRAPHY and UNIVERSAL HISTORY, in their greatest Latitude, and with All that belongs to them." The syllabus of the course is no less varied than attractive, including as it does the Postage of Letters by Doves from Alexandria to Cairo; the Generation of Chickens in Ovens by the Cofts of Old Cairo; the Catching and Killing of Crocodiles in Pits upon the Banks of the Nile; a true Account of the Creation and Fabric of the World; the Beauty and Harmony of Evangelick Doctrine; the Examples and Characters of Virtuoso Ladies; the Follies and Miscarriages of Coquets; Seraglios Public and Private; the Variety and Differences of Tongues; the Propriety and Elegancy of Expression; and (more relevantly) French, Italian, High Dutch and English. Here, surely, was a wondrous feast to tempt the fastidious palate of Auld Reikie! "If, therefore," concludes the Professor, "there be any Gentlemen or Ladies, who have a desire to be Tought GEOGRAPHY, and HISTORY, or the LANGUAGES,

These are to give Notice, That they may have that Service carefully done them by the said Mr. MackGregory, who is to be heard of at the Exchange and Caledonian Coffee-Houses, and desires, That all Those who have a Mind to Imploy him, may Engage with him before the First of November, being then to begin his Courses, which are from that Time to continue Daily, and be compleated within a Year." It appears further that the indefatigable savant found leisure to write sundry learned works, as "The Geography and History of Mons" (Edinburgh, 1709), and similar volumes dealing with Lille and Tournai. He also published "An Account of the Sepulchers of the Antients, and a Description of their Monuments, from the Creation of the World to the Pyramids, and from Thence to the Destruction of Jerusalem, in two parts.... By John MackGregory, LL.L., Professor of Geography and History" (London, 1712).

Note III.—Execution of Nicol Muschet.

Ane note of the Chamberlaine's expense anent Nicol Muschett.

		lb.	s.	d.
Imprs.	Paid 2 men wairding said Nicol ye night before he was hangit,	00	16	10
Item.	Wine to ye Minister and ye Bailizes, ...	02	00	00
Item.	Ane Coul to ye sd Nicol, . .	00	08	00
Item.	Ane knife to cut aff his hand, .	01	10	00
Item.	Ane tow to hang him, . .	00	06	00
Item.	Paid Deacon Gawinlock putting up ye gallows, 6 men, 1 day, .	05	08	00
Item.	Paid ye Smith for cheinzies, .	24	06	08
Item.	Breid and yill to ye workmen, .	02	00	00
Item.	Paid Saunders Lumisdaine ye hangman, ...	03	00	00
	Summa est	39	14	08

The original MS. of this curious account of expenses was lent by Charles Kirkpatrick Sharpe to James Maidment, who first printed it in his notes to *The Argyle Papers* (Edinburgh, 1834).

THE MASTER OF SINCLAIR AND THE FIFTEEN

The Master with the bully-face,
And with the coward's heart, man,
Who never missed, to his disgrace,
To act the traitor's part, man.

—*Jacobite Song.*

In the twenty-fourth chapter of the tale entitled *The Heart of Mid-Lothian* it is the part of kindly Mrs. Saddletree to break to Jeanie Deans the pronouncement of her sister's doom. The jury, while finding Effie guilty of the crime with which she was charged, have recommended her to the Royal mercy; but Jeanie wonders whether in such a case the King can exercise his prerogative. "*Can* he gie mercy, hinny?" says Mrs. Saddletree, "I weel wot he *can,* when he likes. There was young Singlesword, that stickit the Laird of Ballencleuch, and Captain Hackum, the Englishman, that killed Lady Colgrain's gudeman, and the Master of Saint Clair, that shot the twa Shaws, and mony mair in my time—to be sure they were gentle blood, and had their kin to speak for them. And there was Jock Porteous the other day—I'se warrant there's mercy, an folk could win at it." Of the cases cited by the worthy dame those of young Singlesword and Captain Hackum are, I fear, insusceptible of further reference, and with that of Captain Porteous I have already elsewhere rather exhaustively dealt; but the Master of Sinclair's is another story, which, as less familiar to the general reader and in itself both curious and interesting, is worthy of a brief presentment.

The Master's claim to the consideration of posterity rests upon his *Memoirs of the Insurrection in Scotland in* 1715 (Abbotsford Club: 1858). Gifted with a sharp tongue and a pen no less pointed, this *advocatus diaboli* of the Rising conducts his case with marked ability, complete self-confidence, and great satirical power.

Intended as an apologia for the author's conduct, which had not escaped the strictures of his party, the *Memoirs,* in the opinion of Sir Walter Scott, are more successful in exposing the shortcomings of others than in justifying his own behaviour. Mr. Andrew Lang has described them as written with the bitterness of Sir Malachi Malagrowther, and it may be that the Master was unduly prejudiced against such of his associates as had the misfortune to differ from him in judgment. Not even Flaubert himself nursed a fiercer scorn for the stupidity of his contemporaries than did the Master of Sinclair. But he certainly possessed the foresight, sagacity, and military skill so conspicuously wanting in the counsels of the insurgents; his vivid sketch of Mar is admittedly a lifelike portrait; and his own inactivity at Sheriffmuir at least enabled him to give the best account we have of that debatable and doubtful field.

There is little likeness between the Jacobite risings of 1715 and 1745 beyond the collapse of their common effort—the rebuilding of the fallen house of Stuart. *Nisi Dominus ædificaverit domum :* and all good Whigs and Presbyterians were persuaded that Providence had plainly declared against the enterprise. No ray of the glamour which gilds in the retrospect the fine failure of the Forty-five illumines the dismal business of the Fifteen. Ill-timed, ill-planned, half-hearted and misguided, the earlier attempt lacks the high heroic note; and in the romantic fame attaching to the vain endeavour of Prince Charles, old Mr. Melancholy's tragi-comedy has neither part nor portion. The frigid image of the Chevalier St. George, the gallant glowing figure of the Young Adventurer; the vacillation and incompetence of Mar, the boldness and resource of Lord George Murray: these contrasts but exemplify the very different fates of their respective ventures. Regarding Mar's ineptitude as a commander Sir Walter Scott has observed: —" With a far less force than he had at his disposal Montrose gained eight victories and overran Scotland; with fewer number of Highlanders Dundee gained the Battle of Killiecrankie; and with about half the troops assembled at Perth Charles Edward in 1745 marched as far as Derby, and gained two victories over regular troops."

But in the Fifteen, by that strange fatality which dogged the fortunes of the Stuarts, they lacked a leader of military talent at the very time when for once their forces were adequate to the occasion: they had the means but not the man. Scott held that, if the armies had changed generals, Argyll would have made himself master of Scotland within the month. Be that as it may, we are only here concerned with the greater issue in so far as it affects the subject of our study, who is big enough to demand for himself all the space at our disposal.

The Hon. John Sinclair, eldest son of Henry, eighth Lord Sinclair, and his wife Grizel, daughter of James Cockburn of that Ilk, was born, probably at Dysart, the family seat in Fife, on 5th December 1683, and was called by Scots custom the Master of Sinclair. "It is well known," he writes in commencing his *Memoirs,* "that I am of a Familie who, at all times and upon all occasions, were attached to the Crown of Scotland, and who have sufficientlie suffer'd for it, and that I was earlie instructed in the principles of an indispensable duty and fidelitie towards my Prince; and I must own that from my infancie I had an innate zeal and affection for all the remains of the old Royall Familie of Scotland." When a lad of twenty-three he attended, as a Peer's' eldest son, the debates in the last Scots Parliament upon the Treaty of Union, "that infamous surrender of our rights and liberties," which, he tells us, made a deeper impression on no Scotsman than on himself. He saw, "with horrour," the descendants of noble ancestors, whose glory it had been to sacrifice life and fortune for their country's freedom, solicitious to reduce it into the contemptible province of a neighbouring nation. There was indeed among these "a hideous mixture of such whose names had no place in storie, and who, haveing no share of the honour of their Countrie transmitted to them, were not so much to blame if they bartered it away for profit or preferment, or to secure the ill-got wealth they had alreadie purchased, being conscious of their own guilt. There were wretches of a mushroom growth who, like the false mother before Solomon, had no other way of getting a part than by destroying the whole; and they now flourish and lord it in peace, haveing sweept away

all marks of power and distinction, and thereby put themselves on a levell with those whose vassals they were not long before." One is reminded of Flamineo's gibe in *The White Devil* of Webster: "If [there were] gentlemen enough, so many earlie mushromes, whose best growth sprang from a dunghill, should not aspire to gentilitie."

Such being the views of this incisive critic upon the vexed question of the Union, little wonder he had no liking for Mar, who, as Secretary of State, was so indefatigable in furthering it.

The *Memoirs* show the author to be an accomplished scholar, on familiar terms with the Latin classics, from which his frequent quotations appear to have been made from memory. Where he received his education is not recorded, but being a "Fifer," it was probably at St. Andrews.

Soon after the consummation of the Union young Sinclair left Scotland and went abroad, intending to join the army of the Allies under the Duke of Marlborough in Flanders. He did so "without recommendation, support, or the least acquaintance there," and also outwith the knowledge of his father, who had designed him, in view of his studies, for some other state of life. Either at the Bar or in the pulpit the Master would have made a formidable figure, but apparently a civil career had no charm for one of his contentious spirit. "In my way to the armie," he writes, "while I was meditateing how I should carry a firelock, I had the good luck to meet with a colonall, a gentillman of note of my countrie, who had the generositie to attache himself more to me than I did to him—[a characteristic touch, this]. He made me some time after a captain in his regiment, where I served till I was oblidged to quit for tuo misfortunes that happened in a very short time, one after the other." This is all that modesty permits the author to say of the circumstances which led to his leaving the Duke's army, but these are fully set forth in the Report of the Court-Martial held upon him at the camp at Rousselar (Roulers) in Belgium, on 17th October 1708. The proceedings thereat, printed by Sir Walter Scott from an attested copy in his possession, were presented by him to the Roxburghe Club in 1828.

From these it appears that the Master, who then held the rank of Captain-Lieutenant in Colonel Preston's Regiment of Foot, was accused, first, of challenging Ensign Hugh Schaw of the same Regiment, in breach of the 28th Article of War. Captain Drummond produced the letter of challenge, "which the Prisoner disowns." Lieutenant Simpson stated that he was with Ensign Schaw at Moorseele in West Flanders, when a corporal brought him a letter, which having read, the Ensign said was a challenge from the Master of Sinclair. Schaw declined to send an answer at the moment, "being then to look after his brother who was wounded before Lisle"—he had just heard that his brother George had been mortally wounded at the siege of Lille, and was about to leave the camp to see him. Before doing so, however, he commissioned Simpson to tell the Master why he could not wait upon him that day. If a meeting should take place later, he would be prepared to defend himself, and "after all he had really said nothing but what he thought he could prove." To Simpson, Sinclair admitted sending the challenge, and swore that he and Schaw must meet that night. The witness "desired him for God's sake to rule his passion and be reconciled," but Sinclair said he would not, for his honour was concerned. Simpson remarked that it was his duty to inform the Colonel, and Sinclair answered that if he did, he would be a "Rascall."

Upon this evidence the Court were unanimously (and unaccountably) of opinion that it did not "sufficiently appear" that Sinclair had challenged Ensign Schaw, and the prisoner was acquitted accordingly.

The second charge, of killing Captain Alexander Schaw of the Royal Regiment of Foot, commanded by the Earl of Orkney, at the camp of Rousselar on 13th October 1708, in breach of the 19th Article of War, was then gone into. Captain Alexander was the elder brother of Ensign Hugh. Patrick Sclater, a private in Ensign Schaw's company, stated that at Moorseele he saw the prisoner meet the Ensign, and heard him call out that he wanted to speak to him. When they came close together the prisoner took a stick from under his coat and struck the Ensign two blows on the head. They

then drew their swords and fought. The witness tried to intervene, and, failing to stop them, was about to call the guard when the prisoner's sword broke. Sinclair went behind the witness, telling him to keep Schaw off; the latter said, "I am more a Gentleman than to pursue you when your sword is broke." The prisoner then went away, calling Schaw "a murthering Rascall," and saying that he had sent him a challenge the day before. The witness observed that Schaw's sword was bent. Another private named Logan, who also had been present at the duel, corroborated.

No mention is made of the wounds inflicted by the Master, but it otherwise appears that the unfortunate Ensign was mortally hurt, and succumbed to his injuries shortly after the close of the inquiry.

In answer to this evidence the prisoner stated that Ensign Schaw had blemished his reputation by giving out that he misbehaved himself at the battle of Wynendael, fought on 28th September. Ensign Colville of the same regiment stated that while under fire at that engagement Ensign Schaw called out something to the prisoner, and next day he heard him say that during the action Sinclair had "bowed himself towards the ground for a considerable time together." Ensign Blair stated that he also heard Schaw say that the Master "stoop'd in time of action, and that he [Schaw] had told him of it." Captain Ruthven, of the Royals, stated than on the 13th instant, between seven and eight in the morning, he had a conversation with Captain Schaw, who remarked, "I find the Master of Sinclair is to attack me; he may come and attack me now in my Tent, I have a Pair of charged Pistols for him." Ruthven said, "God forbid, Schaw, he should treat you so brutally; I hope, if he has a mind to attack you, he will treat you lyke a Gentleman, and with honour." "I don't know," replied the Captain; "he treated my Brother otherwise, for he had [a pad of] paper on his breast, and my Brother's sword bent against it; however, I believe my ball will pierce his breast better than my Brother's sword." They parted soon after, and he saw the deceased no more. John Moore, servant to the late Captain Schaw, stated that on 13th instant, as he was riding with his master at the

head of Major-General How's Regiment, the Master of Sinclair galloped up and told the Captain to go to the front as he wanted to speak to him. This the Captain declined to do, remarking that if he had anything to say he might say it there; whereupon the Master said, "If I fire at you here I may kill some other Bodie"; to which the Captain answered, "You may fire if you please, for I have no ill-will against you." The Master then demanded an apology from the Captain, who replied that he would not beg his pardon, having done no offence. The Master then drew his pistol, and before the Captain's was half out of his holster, fired, Schaw falling dead from his horse "with his pistoll in his hand not drawn out of the bag." Sergeants Bell, Sharpless, Mackulla, and Glasby, all of Major-General How's Regiment, gave substantially the same account of Captain Schaw's death, from which it appeared that the attack was entirely unprovoked, and that Sinclair fired before Schaw had time to draw his weapon. Two of them heard the prisoner say before he fired, "I would shoot you on the spot, if it were not for these two Gentlemen," referring to two officers who were passing at the time. Corporal Hanks, of the same Regiment, stated that, being in his tent, he heard a pistol shot, and running out, saw the Captain lying dead upon the ground. His pistol, though charged, was neither primed nor cocked. "The Prisoner says for himself, the deceas'd Capt. Schaw has defam'd him upon severall occasions, and in severall Regiments; that he was forced to do what he had done with a great deal of Reluctancy." No indication of this reluctance, however, appears in his atrocious action.

The following witnesses were then examined for the prisoner: Lieutenant Sir Archibald Cockburn, of the Royals, stated that when he was with his Battalion at Moorseele, Captain Schaw described Sinclair to him as a rascal or villain, adding other "scurrilous expressions" against the prisoner, "which the deponent not caring to hear, was going away," when Schaw called to him, "Sir Archibald, you need not go away, for I say nothing here but what I desire to say very publickly." Captain Home, of the same Regiment, stated that as Captain Schaw rode past him at the head of the Battalion he asked

if there were any news, to which Schaw replied that all the news he had was of that villain the Master of Sinclair, who had committed a villainous and barbarous action upon his brother. Ensigns White and Colville stated that they had heard Captain Schaw say that the Master was a rascal and a villain, who should be chased out of the army.

This concluded the evidence, upon which the Court was unanimously of opinion that the prisoner was guilty as charged, and therefore sentenced him to death; but in consideration of the "high provocation" given by the deceased to the prisoner they humbly recommended him to the Duke of Marlborough "as a fitt object of mercy," and prayed his Grace would be pleased to pardon him accordingly.

Mrs. Saddletree's "twa Shaws" were scions of the ancient and honourable house Sauchie, to which was annexed the barony of Greenock. There were in that generation five brothers: Sir John, the holder of the title; Alexander and Hugh, accounted for by the Master of Sinclair; and George, mortally wounded before Lille, who all died within a few days of each other; and Thomas, killed within the year at the battle of Mons. So hardly did fate deal with this unfortunate family. Sir John had issue one daughter only, and at his death in 1752 the estate passed to another branch. Along with the proceedings of the Court-Martial Sir Walter Scott published a series of letters written by Sir John Schaw to sundry great folk with a view to having the sentence enforced against the slayer of his kindred. "When I thinck of the Loss of my Brethern," he writes on 28th October 1708 to the Earl of Stair, then British Ambassador to France, "and that he who destroyed them should survive, and that endeavours should be used for his Escape, my perplexion is beyond Expression." On receipt of the news Sir John had come post to London, intending to proceed at once to Flanders, but by the advice of his friends he remained there, and "having an entire dependance on the Duke of Marlborough's Justice," entered into correspondence with that nobleman and others regarding the rumoured pardon of the condemned Master. In a dignified appeal to the Duke,

enclosed in his letter to Stair, he reminds his Grace how his four brothers ventured their lives in the army under Marlborough's conduct, of whom three are now dead; the Master's "misbehaviour" in presence of the enemy could hardly, he remarks, be repaired by insulting and killing two fellow-soldiers who were ever ready and willing to fight for their country; finally, he pleads for a speedy sentence, and hopes "that no sollicitation may be suffered to stop the execution thereof."

On the same day he writes to the Duke of Argyll, and beseeches him—"knowing that Courage and Humanity are your Grace's peculiar Virtues"—to see justice done for the murder of the two brothers, whose loss, had they fallen in battle, he would have borne with patience, as he did that of the other, killed before Lille. The circumstances of the case must have made a strong appeal to so good-hearted a man as Jeanie Deans' Duke, but what action he took in the matter is not recorded.

Writing to Stair on 2nd November Sir John says that he has entered caveats with the Secretary of State against a pardon being granted without his knowledge, and that he is advised that the Queen will not interfere with the sentence. He had presented a petition to Queen Anne, praying Her Majesty to give orders for bringing Sinclair to condign punishment for his barbarous and bloody crimes. Later, at a personal audience, Anne assured him that she would not meddle in the matter.

As a result of Sir John's importunities the Duke remitted the Court-Martial proceedings for the opinion of the Attorney- (Montagu) and Solicitor-General (Eyre), who on 15th November reported that had Sinclair been tried in England the Court, upon the evidence given, must have directed the jury to find him guilty of murder, "for no Provocation whatever is sufficient to excuse malice, or can make the Offence of killing less than murder, when it is committed with Premeditation." How far such provocation might be a ground for mercy they left to his Grace's consideration. Marlborough apparently decided that justice must take its course, for on 17th April 1709 he signed an order to that effect, but the execution was delayed to enable the prisoner, on parole, to participate further in the Flanders campaign, and, if

we can believe the Master, Marlborough himself urged him to escape and gave him credentials to the King of Prussia.

The issue of the affair is briefly recorded by the author. After mentioning his "tuo misfortunes," he complains of being "oblidged to quit" on account of them, "notwithstanding of the court-marishall's recommending me to the Generall, his Grace the Duke of Marlborough's mercie, which was always lookt on as equall to a pardone, and which, I can aver, was never refused to anie but myself; nor was his allowing me to serve at the sieges of Lille and Ghent precedented, on my giveing my word of honour to return to arest after those sieges were over, which I did, and continued till his Grace of Marlebourough sent his repeated orders to make my escape, which I disobey'd tuice; but at last being encouraged by his promise to recommend me to any Prince in Christendom that I pleased, for these were his words, I went off, and procured his recommendation to the King of Prussia, in whose service, which I may say is of all the stricktest, I came back to serve in the Low Countries, where I continued untill the end of the war; at which time her Majestie Queen Ann, haveing, as it was said, turned Tory, vouchsafed me her pardon." The Schaws, by the way, were zealous and active Whigs.

Whatever be the truth of the allegations regarding the Master's bowing down in the field of Mars, and his unsportsmanlike use of a paper breastplate, there can be no question of the savage brutality of his behaviour to the brothers. He tells us nothing about his experiences in the service of the King of Prussia, which no doubt afforded freer scope for the exercise of ferocity, but it seems strange that a British commander-in-chief should have countenanced such proceedings to the extent of favouring the offender's escape.

On 12th August 1710 Sir John Schaw, having learned that Sinclair was reinstated in his regiment, addressed a strong protest to the Duke. He pointed out that when the death sentence had been confirmed by Marlborough, and the prisoner made his escape to Prussia, he was content to pursue him no further; but to his surprise and sorrow he has of late been informed that Sinclair "has

added to the repeated murthers the impudence of returning, an officer in a Prussian regiment, to the army where he was condemn'd, as it were to affront Justice and glory in what he has done." He begs that the sentence may yet be executed, and concludes with a pathetic picture of his bereavement: "I had about two years ago four Brothers, of whom I may without vanity say they were very gallant Gentlemen; two were murdered by Lieut. Sinclair; the third died in the roome with one of these, pairtly of his wounds received before Lille, and pairtly out of griefe for his Brothers' misfortunes, so that the Offender is not quite innocent even of his Blood: and the fourth was killed at the Battle of Mons. The Blood of these that were barbarously slain calls for Vengeance; the Law of God and Nature requires it. . . . Forgive it to my natural affection if I use arguments with your Grace to do an act of Justice."

To these entreaties Marlborough turned a deaf ear; and at the end of the campaign the Master, crowned with Prussian laurels, came home, and received in 1712 the Royal remission of his sentence. He was advised to pay court to Mar, then Secretary for Scotland, as "the riseingist man of that Nation," but he found that Mar had used all his influence to hinder the granting of the pardon, which accounts for the extreme rancour which he henceforth cherished against that nobleman. He left London, disgusted with the intrigues of the Scots nobility, and retired to Fife "and the innocent amusements of a countrie life, resolving rather to put my hand to the plough than ever prostitute myself and the honour of my familie by truckeling or cringeing to any insolent or deceitful courtier." There was, to do him justice, nothing of the sycophant about the Hon. John Sinclair.

While the Master at Dysart was cultivating the rural virtues, and giving his Tory friends offence by attending the Kirk, where, by the way, he found he was but seldom edified, the death of Queen Anne, that well-established historical fact, took place on 1st August 1714, and the Elector of Hanover peacefully succeeded to the British throne. Mar, distrusted and disgraced by the new monarch, to whom he had proposed to dedicate his

devotion, was busy intriguing with the Highland chiefs for a Jacobite rising in the North. The Duke of Berwick advised the Chevalier that he must either go in person to Scotland or lose his honour; the date of the rising was fixed, and then countermanded; but Mar, without a commission from his exiled sovereign, left London for Scotland to raise the Royal standard.

Dining one day with the laird of Grange, Sinclair learned from him that Mar and General Hamilton had landed "out of a coale barck" at Elie the night before; that they came to pave the way for the Duke of Berwick's coming, if not the King's; that all was ready in England; and that ten thousand men, with great stores of arms and ammunition, would shortly arrive from France. *Timeo Danaos,* was the Master's comment upon Mar's good tidings. The gentlemen of Fife, misled by what he roundly terms Mar's "lyes," were ready to join the rising at once; the cautious Sinclair, however, advised delay: it were better to wait until the King came, and they saw the Highland chiefs unanimous—Mar was at work among the clans, proselytising with varying success. Summoned by him to repair to the King's standard so soon as it was set up, our Cincinnatus declined to leave his plough. "I took the freedom to tell the companie," he writes, "that they might depend upon it there was no such thing as a commission; that my Lord Mar's disappointments at Court haveing rendered him miserable, had made him desperate, and to my certain knowledge, haveing nothing to loose, his designe was to make himself a great man abroad by riseing on our ruins at home."

The death of Louis XIV. at this juncture disposed, in Sinclair's view, of any chance of aid from France. It meant more than that: Louis, whom Bolingbroke termed the best friend the Chevalier ever had, was the life of the Cause, and with him died all chance of its success. "The Highlandmen would rise out of hopes of plunder, and would doe as they had always done"—witness the experiences of Montrose and of Dundee: either they weary and desert, or if victorious, retire with the spoils; "if they are beat, they run straight home." In any event the Lowland gentry would have to pay the piper. Sinclair's cynicism was justified.

Meanwhile the "Tinchal" called by Mar had been so well attended by the chiefs that it was decided to raise the standard of James III. and VIII., which was accordingly done at Braemar on 7th September 1715.

Next day a hopeful scheme designed by Lord Drummond and approved by Mar, for surprising the Castle of Edinburgh, failed through the incompetence and folly of those entrustd with its management. One Forbes, "a little broken merchant," was selected by Drummond as engineer and conductor of the affair. A sergeant and soldier of the garrison were bribed; when the former had the guard, he was to place the latter at a post on the Castle wall as sentry, who would let down cords which the conspirators could attach to scaling-ladders, and so gain entrance to the fortress. Drummond furnished forty Highlanders, and fifty young apprentices, advocates' clerks, writers, "and some servants to those in the Government," was Edinburgh's contribution. The night was arranged, and the rendezvous fixed for nine o'clock at the West Kirk, below the point of attack; but Forbes and others, who were to bring the ladders from the Calton where they were being made, lingered in the city till after ten (the hour determined for the assault), drinking to the success of the undertaking. Those on the spot, impatient of delay, climbed the rock, and tried to effect their purpose with grappling irons, but after an hour spent in fruitless effort the sentry called out, "God damn you all; you have ruined both yourselves and me; here comes the round I have been telling you of this hour; I can serve you no longer." Whereupon, shouting "Enemie!" he fired his musket, and, in the Master's phrase, "everie man shifted for himself, the round fireing over the wall after them." What time Mr. Forbes, the engineer, and his merry men, with the ladders, had only got the length of Bareford's Parks, half-way along the modern Princes Street. The wife of one of the conspirators, Dr. Arthur, had given to Lord Ormiston, the Justice-Clerk, a hint of what was afoot; "but all agree," says the Master, "that had the ladders come in time, the Justice-Clerk's advertisement had come too late." So indiscreet were the Forbes contingent that one who had been in their company, but not of it, that

night in a tavern, told Sinclair the hostess informed him they were "poudering their hair to go to the attack of the Castle."

The failure of this attempt, so typical of the methods that rendered the rising abortive, was a vital blow to the Chevalier's cause, which thereby lost the chance of gaining not only the greatest stronghold in the kingdom, with all the military stores, but also the sum of £60,000, Scotland's "Equivalent," which had lain there unappropriated since the Union.

The occupation of Perth by the insurgents on 28th September made it impossible for Sinclair longer to hold in the Fife Jacobites, who were already straining at the leash; so against his better judgment he decided to join them, and, numbering fifty horse, they marched to the Fair City, then and afterwards the headquarters of the rebel army. He gives a caustic account of what he found there. Mar with the main body was still in the North, and to the Master's experienced eye the military dispositions at Perth were ludicrously inadequate to meet the expected attack of the Government forces assembled at Stirling under the Duke of Argyll. Colonel Hay, the officer in command, "was a young lad who stood much in need of advice, being latelie come from schoole"—his knowledge of the art of war was derived from having mounted guard once or twice at St. James's Palace. Sinclair was not sparing of advice. In the end he got his own way, the Colonel telling him to "make what changes about the place he pleased." Divers noblemen and lairds with their following began to come in, of whom Lords Strathmore and Panmure alone secured the Master's commendation for capacity, and at length Mar himself arrived to take the supreme command. Of his companions in arms the Master's account is far from flattering. The Highlanders he classes with Negroes and Laplanders. "If by nature," he remarks, "they are distant from the state of beasts, nevertheless they differ very little from them"; the horse is only capable of eating, drinking, sleeping, running, and returning to his stable: "you need not add much to form a Highlandman." To the Lowland lairds and gentlemen he is little kinder; and he objected to the signatures of those who

were members of the Society of Writers to the Signet being appended to Mar's address to the Duc d'Orléans, on the ground that "it look't like mocking the Regent" and would give the impression that "we were all made up of such canaile"! He gives a scathing account of the jealousies and factions which rent the counsels of the army. "While everie one was building castles in the air," he writes, "and makeing themselves great men, most of our armes were good for nothing," and though the ammunition, of which so much had been promised, was not forthcoming, Mar—"a Generall by Divine inspiration"—was still "full of lyes and great hopes." Argyll, who had only about 2000 regular troops, biding his time, remained at Stirling, "and tho' a younge man, full of fire," says the Master, "acted, in my private opinion, the part of ane old wary Generall." The inactivity of Mar, on the other hand, with some 12,000 broadswords at his disposal, was less commendable.

It is not my purpose to pursue in detail the story of the futile campaign, but one fruitful and effective exploit, of which the credit is due to our hero, must be mentioned. A marked weakness of the host assembled at Perth was the shortage of munitions. At six o'clock on Sunday morning, 2nd October, a Fife friend of Sinclair's came to him at Perth, having ridden all night, to tell him that there was a vessel in the harbour of Burntisland loaded with ammunition and arms—"at least three thousand." The cargo had been shipped at Leith, and was intended for the loyal clans under the Earl of Sutherland, then commanding the King's forces in the North; but the skipper, with whom domestic affection outweighed the sense of duty, had first put in to Burntisland to visit his wife. The Master was transported with the news, though he knew enough of his friend's imaginative powers to accept his estimate with reserve. He at once awakened Mar, who, after making all sorts of difficulties and wasting valuable time—the ship was to sail with the evening tide—at last authorised the Master to attempt the *coup*. Accordingly Sinclair set out at five o'clock with eighty horse. Avoiding villages, and taking along with him such persons as he met upon the road, for if Argyll got wind of the affair

the dragoons from Stirling might easily cut off his retreat, the Master reached Burntisland. The ship had already drawn out of the harbour, but her captain yet lingered in the family bosom. No time was lost in securing the harbour heads, and the person of the uxorious mariner; all available small boats were commandeered, and the services of the townsfolk requisitioned to man them; the ship was boarded with ease, "but the wind being contrarie," it was hard work towing her back to her berth. Meanwhile the Master had his own to do ashore, for the amateur troopers, having loosed their horses' bridles, "went a strouling thro' the toun" in quest of alehouses, a practice which, as their leader complains, "confounds at all times, but more at night, the unluckie officer who has the command of them." Standing in the water up to the middle Sinclair with his own hands received the arms from the ship's side, and found to his great grief "but three hundred, wanting one." There were also a few barrels of powder and ball, and some cartridge boxes, which, with twenty-five firelocks and a barrel of powder seized on board another vessel in the port, and thirty more appropriated from the Town Guard's armoury, completed the haul. This, after his enthusiastic friend's forecast, must have been disappointing indeed. It was well that the Master had allowed a margin. His volunteers were slow to load the fifty baggage horses; "after humblie beggeing the favour of these fellous to put on more, to no purpose," says Sinclair, "I gave them round without distinction a heartie drubbing, the most persuasive and convinceing argument to those sorte of men, and with my own hands tyed on the greatest part of them." The Master knew his business. After sundry exciting adventures by the way, due mainly to the indiscipline of his troopers, on which I have no space to follow him, Sinclair brought his booty into Perth "at five of the clock, without either eating or drinking or sitting doun," so far as he was concerned. "All these particulars I have mentioned," he characteristically remarks in closing his account of the exploit, "tho' about a thing of no consequence, to sheu the trouble one has with such fools, and how great a misfortune it is to be concerned with them; and how much their own wilful

confusion puts it out of their pouer either to be helpfull to themselves or their cause." He was not one to suffer fools gladly.

The Master was next commissioned by Mar to visit the fringes of Fife, proclaim the King in various towns, levy taxes, seize all arms and ammunition, and also to inspect and secure the fishing-boats required for the prospective crossing of the Firth by a strong force under Mackintosh of Borlum. The very partial success by which the latter venture was attended is attributed by Sinclair to the mismanagement of Mackintosh, who, he says, was "fudled" at the time of embarkation, and was, moreover, personally unpopular with his men—they called him "a baptized brute." "Of the twenty-five hundred who were designed to pass, eleven hundred got over, and a thousand were so frightened with the terrour of the sea and the expedition that they deserted to their hills." The further fortunes of the enterprise were known to the Master only by hearsay, as he took no further part in it. Forth is proverbially said to bridle the wild Highlandman; but there seems no question of the soundness of Sinclair's opinion that instead of detaching so many men for the passage of the Firth, Mar should have moved his whole force to the Fords of Frew, near Aberfoyle, where Prince Charles passed in 1745; "but I never heard," he says, "of anie man of our armie who knew any thing of those foords except Rob Roy, who, they themselves said, they could not trust." Honest Rob had occasion to know the Fords, as readers of Sir Walter will remember. "We were so far from haveing reason to fear —what Mar insinuates in his letter [his despatch of 21st October]—the Duke of Argyle's attacking us," says Sinclair, "that he could not, in all humane probabilitie, [have] hindred our passage of the Forth, and must have decamped, except God Almightie had determined otherwise, or our great Generall, out of prepenced malice and couardice, I don't see what we had to hinder us; nor doe I think, after the rivers suelled, and the Duke of Argyle was reinforced, it was ever possible afterwards, to say nothing of our men's deserting dailie, and our spirits laggeing, by seeing, more and more every day, into our oun confusion, and the fallacie of Mar's promises."

On 12th November the Highlanders under Mackintosh, with their English adherents, surrendered at Preston, and

on the following day at Sheriffmuir the fate of the Rising was practically sealed. For a month after Mackintosh had crossed the Firth Mar sat still at Perth, mainly occupied in dictating despatches and issuing proclamations demanding supplies.

On 10th November, however, the rebel host at long length began to move towards the Fords of Frew. Next morning Argyll, having learned of the advance, marched through Dunblane to intercept it, and took up his position on Sheriffmuir. We cannot here fight over again that disputable battle, in which each side claimed a victory, but must refer the reader to the Master's exhaustive account of the engagement. It is interesting to note, though Sinclair makes no mention of the fact, that Sir John Schaw fought with distinguished courage as a volunteer in King George's cause, and was twice wounded. Mar's force outnumbered Argyll's by more than two to one. The brilliant attack by the Highlanders on Argyll's left was entirely successful; on the right wing the advantage obtained by the Government troops was equally complete. In the centre, as appears, the insurgents might also have triumphed had their cavalry charged at the proper time. As it was, two squadrons went off in pursuit of the fugitives whom the Highlanders had scattered, while those under command of Huntly and Sinclair remained inactive on the field, and never engaged at all. The popular view of the conduct of those leaders is thus expressed by the contemporaneous balladmonger—

> Huntly and Sinclair,
> They baith played the tinkler,
> With consciences black as a craw, man.

Mr. Andrew Lang, in his *History*, remarks that Sinclair takes great credit for preventing his men from charging and has been blamed in consequence: "But what could three squadrons do against an undemoralised line of bayonets? Really, he seems to have shown judgment," The Master himself, in replying to his critics, with wonted irony observes:—"I am of opinion that if a man has a mind to save his bacon, the best way that he who commands can take is to give those he leads on such an occasion their full suinge, and let them run out: and after their loseing

him or he them, which is soon done, being well mounted he can goe where he pleases and pretend strange adventures, when in the mean time he might be in a place of safetie without any spies on him. And if then that tumultuarie way should succeed with those people, having judgement enough to keep within distance he has but to joyn and talk bigg; if it goes wronge, he takes his measures and makes his escape, and it may be complains of those he was with. But it is presumeable that he who keeps those under his command together and never stirs from their head, resolves to stand firm and shew a good example; otherwise he must be a fool to keep so manie spies on his conduct and a dead weight upon him, which he won't get shaked off when he would. It's not in our armie alone that some have pretended to be everiewhere but where they ought to be in a day of action, that they may have occasion to be nowhere. . . . These Lords [Drummond, Kilsyth, Marischal, and Linlithgow] ought to have been contented with that impunitie given them by Mar of doeing what they pleased and assumeing all to themselves, houever worthless they are known to be, without putting people to the necessitie of proveing them wretches capable of nothing but bringeing disgrace and miserie on their Countrie."

Whether or not the Master's fellow-officers did him less than justice, their mutual recriminations could not fail to damage the common cause, and the state of matters at Perth, to which the army returned, became yet more confused and hopeless. In the North Lovat had raised his clan, and captured for King George the Castle of Inverness; Glasgow was in the hands of the English regiments, fresh from their success at Preston; and 6000 Dutch troops had reinforced Argyll. Sinclair, as president of what was known as "The Grumbler's Club"—an institution for which the circumstances must have afforded a fine field—was in daily conflict with Mar. He saw that the game was up, and advocated an attempt to make terms with Argyll; he carried his point, but the Government would accept nothing short of unconditional surrender. Huntly went North upon his own affairs—his country was threatened by Sutherland; and the Master, shaking the dust of Perth from his feet, followed soon after, glad, in his own forcible phrase, "to be out of that hell." His position had become unendur-

able. It was "agitated" in Mar's cabinet council whether he should be sent to Dunnottar or to the Western Isles; and apart from the "calumnious prosecutions" of which he complains, so bitter were the Highlanders against him that he was like to be "cut doun" on the street. He was "adverticed" both by friends and foes that his life was in danger. One night an ambush was laid for him in a tavern, but his bold bearing carried him through. He exonerates Mar from participation in these designs for the curious reason that "he could gain nothing by my murther, which must certainlie doe him more harm than good, except he could bring it about by my undescretion and then throw the blame on myself"! A less prudent man than Sinclair must have realised that it was time for him to go.

By Christmas Day the Master was with Huntly at Castle Gordon, where he found a quiet refuge, "after being wearied to death with fighting that monster with many heads, many hands, many feet, and (worst of all) many tongues, which St. George's dragon was a jeast to, nor could his conflict be so well proven as mine"; having struggled, he protests, with as much zeal for his country in Perth, as did St. Paul for his faith with wild beasts at Ephesus. News of the Chevalier's landing at Peterhead on 22nd December disturbed his well-earned repose. "Now ther's no help for it," said Huntly; "we must all ruine with him. Would to God he had comed sooner." They learned further that if James found matters "on a bad foot," he was resolved to return immediately, leaving his poor subjects free to make what terms for themselves they could—"a very just and reasonable thought," comments the Master bitterly. Mar, however, "captured" James—"that unhappie Prince, intirelie a stranger to his oun affairs, as much as he had dropt out of another world or from the clouds"—and had him "carried triumphinglie up to Pearth," where the Royal presence, so long anxiously looked for, failed of its anticipated effect. "If he was disappointed in us we were tenfold more so in him," writes an eyewitness, in a tract erroneously ascribed to Sinclair, who did not meet the Prince. Old Mr. Melancholy, the pamphleteer reports, was never seen to smile; with the ague, and a price upon his head, amid the

agréments of a Scots winter, and the general ruin of his cause, it is not surprising.

Sinclair declined Mar's invitation to rejoin the standard, Huntly did nothing; and finally, when word came of the evacuation of Perth, the retreat to Montrose, and the flight of Mar and his master to France, our hero resolved upon the course which, in the last resort, he had long envisaged: to make for the Orkneys, where he hoped "to skulk till I got some ship to waft me over to some forraigne shore." Fugitives, "extreamlie dumpish and melancolie," began to arrive; and the Master prudently desired to secure an early boat, as, if Sutherland laid an embargo on shipping, his retreat would be cut off except from the Highlands, where it was not proper for him to go—"by Mar's particular care they had got so bad an impression of me that I was sure to be murder'd, otherwise I should not be one of the first to follow his scandalous exemple of deserting my Countrie."

Passing the Moray Firth to Caithness, Sinclair and his companions reached the wild shores of the Pentland Firth. Of the terrors attending the passage to Orkney he retains a vivid memory, which finds relief in sundry apt quotations from *Æneid* illustrative of the perils of such waters. At Kirkwall the melancholy prospect of the castle ruins—"the seate of the old Earles of Orkney, my ancestours"—was a depressing sight for one "in whose veins the blood of Robert Bruce ran as fresh as in his oun," and this reminder of the fallen fortunes of his house did not improve the Master's temper. His fellow-travellers had a bad time of it. The curse of confused counsels was still upon the Jacobite remnant, but Sinclair, as usual, got his own way. At Stromness, with six companions, putting off in a small boat, he seized in the bay a sixty-ton ship, "loaded with beef, very fit for our purpose," and having impressed a pilot, with a fair wind set sail for Calais. Some of the fugitives would have preferred a different destination; but, as the Master philosophically observes, "it was not possible to please all, everie one belching out what his follie dictated."

> Per varios casus, per tot discrimina rerum,
> Tendimus in Latium: sedes ubi fata quietas
> Ostendunt,

quotes the Master, in concluding his Memoirs. "And as may be seen by the sequell," says he, "we, still more unstable as the winds, not onlie 'Incerti quo fata ferant, ubi sistere detur'; but as we had begun our affair, so this part of us were to end it, 'in tam diversa magister, ventus, et unda trahunt.'" It was the epitaph of the Fifteen.

Of the subsequent career of the Master there is little left to tell. Duly attainted for his share in the ill-starred Rising, he continued to live abroad. In 1723 Lord Sinclair died. Though a Jacobite and a Tory he had kept clear of the entanglements of Mar, but while obliged to disinherit John, the heir, in favour of James and William, his younger sons, with a resourcefulness which must have earned the approval even of that hypercritical exile, he had caused them execute a back bond, binding themselves to manage the property under certain trustees, to whom the rents should be paid for behoof of their outlawed brother; and in the event of the latter becoming "free of his present inconveniences," or having lawful issue, they were further bound to reconvey the estate to him or to his children. As it would never have done to set forth the true consideration, the deed declared the cause of granting to be the "unfortunate accidents that some years ago fell out abroad between the said Master and two sons of the deceast Sir John Schaw of Greenock."

In 1726 the Master of Sinclair obtained a pardon for his life, which however did not remit the penalties of the forfeiture. The incapacity was mainly a technical one, for on his return to Scotland he settled down at Dysart, and entered, in all but name, upon the peaceable enjoyment of his patrimony. By reason of this pleasant legal fiction the Master spent his remaining years in the dignified leisure he had professed so often to envy, which he now put to profitable use in the composition of his Memoirs. He seldom visited Edinburgh, but on the rare occasions of his doing so he always went incognito, well armed and attended, either to anticipate the vengeance of the Schaws, or reprisals by former friends. Had the Memoirs seen the light in his lifetime, verily would the author have stood in need of defensive weapons to meet the criticisms of his contemporaries. On one such visit he proposed to hire a running footman, and interviewing an applicant, asked the

man as to his qualifications for the office. "Sir," said the candidate, "I ran beside the Master of Sinclair's horse when he rode post from the English camp to escape the death to which he was condemned for the murder of two brothers." Sinclair, we read, "much shocked, was nearly taken ill on the spot." It is improbable that the appointment was obtained.

The drums and tramplings of the Forty-five failed to rouse the Master from the studious peace of Dysart; doubtless he deemed himself already sufficiently a martyr to the Cause, and found that he could do better execution upon his enemies by sharpening his quill against them, than by reverting to the doubtful arbitrament of steel. He died at Dysart on 2nd November 1750, in the sixty-seventh year of his age. He was twice married, his first wife being the Lady Mary Stewart, eldest daughter of James, fifth Earl of Galloway; his second, Amelia, eldest daughter of Lord George Murray. There was no issue of either marriage. One wishes that these ladies had recorded their experiences of their lord, which could hardly have been other than interesting.

If few Scots patriots have been more roundly abused than the author of these Memoirs, none has hit back with better heart and to greater effect. And though his counterblast be posthumous yet is he assured of victory; for whatever can be said against him the balance is still in his favour.

THE TOLL OF THE "SPEEDY RETURN"

"There was a ship," quoth he.
—*The Rime of the Ancient Mariner.*

For the patriotic Scot, if the term be not tautological, there is no more dismal reading in the history of his native land than the chapter dealing with the affair of Dairen, but painful as is the story of that ill-fated enterprise its main features must briefly be recalled for a better understanding of the strange sequel with which we are here concerned.

Ever since James the Sixth forsook the throne of his ancestors for the more lucrative post made vacant by the death of Elizabeth, Scotland, poor, proud, and neglected, had watched with jealous eyes the commercial prosperity of England. Not, however, until after the Revolution, when our Dutch deliverer sat firm in his father-in-law's seat, did Scotsmen make any determined attempt to challenge their neighbours' mercantile supremacy. In 1693 the Scots Parliament passed an Act for encouraging foreign trade, declaring that companies might be formed to trade with the East and West Indies and other countries. This measure was designed to pave the way for an attack upon the monopoly of Indian trade so long the undisputed privilege of the East India Company. Two years later a scheme conceived in the fertile brain of William Paterson, the projector of the Bank of England, and fostered by Fletcher of Saltoun and other patriots, materialised in an Act of the Scots Parliament establishing *The Company of Scotland Trading to Africa and the Indies,* better known as the Darien Company of unhappy memory. King William was then with his army in France, and the Act received the Royal Assent from his Lord High Commissioner, the Marquess of Tweeddale. Probably the concession was intended as a sop to the national resentment aroused by the King's attitude in the Glencoe business three years earlier. It was proposed to fix the Company's capital at £600,000, one half to be reserved for

Scotland and the other to be offered in London. The information imparted to those invited to subscribe was meagre, for Paterson, anticipating a principle since but too familiar to modern investors, held that "if we [the promoters] are not able to raise the Fund by our Reputation, we shall hardly do it by our Reasons." The London list was open only nine days when the entire issue of £300,000 was subscribed. The old East India Company quickly took alarm; Parliament was petitioned against the proposed infringement of its rights; the King complained that he had been ill-served in Scotland, and dismissed Tweeddale; but the Scots Act could not be repealed. The Commons threatened the directors with impeachment, and the Lords introduced a Bill to prohibit under severe penalties English subjects from investing in the Scots Company and from building, manning, or repairing its ships. As the result of these menaces the English contributors withdrew their subscriptions.

This, financially and commercially, was a fatal blow; but the spirit of Scotland was roused, and the nation to a man determined that in spite of injury, insult, and bad faith the enterprise should not be abandoned. The capital, reduced to £400,000, was subscribed in less than six months—a wonderful feat in view of the relative poverty of the country; the subscriptions ranged from £3000 to £100, and almost every class was represented in the list. Such was the national enthusiasm that many people, having subscribed for far more stock than they could carry, were afterwards unable to meet their calls.

Paterson's scheme was, in a word, to establish on the Isthmus of Darien a trading colony to operate both in the Pacific and Atlantic Oceans, and by means of the overland route to anticipate those benefits now expected to flow from the Panama Canal. After two years' delay and mismanagement the Company's fleet of five vessels sailed from Leith Roads on 26th July 1698, carrying emigrants and material for the establishment of the new colony of Caledonia, and on 1st November they arrived off Golden Island in the Gulf of Darien. With the fortunes of the settlement on the Isthmus I cannot here deal. The whole business woefully miscarried. The climate proved no less inhospitable than the Spaniards, who already occupied the

country and constantly harassed the settlers; and though thus encompassed by enemies, the governors and council of the infant state quarrelled perpetually among themselves. No help came from Scotland, where the directors were busy erecting in Edinburgh, near the Bristo Port, spacious warehouses in which to store the hopeful harvest of the future. After the Company's collapse these buildings were, not inappropriately, employed as a refuge for pauper lunatics.

In May 1699 the English Government dealt the hapless colony its *coup de grâce*. On instructions secretly sent out to the colonial governors of Jamaica, Barbadoes, and New York, proclamations were issued in the King's name forbidding His Majesty's subjects at their utmost peril to hold any correspondence with, or give any assistance to the Scots settlement at Dairen. Thus isolated, and beset by the allied foes Spain and fever, with no supplies coming from home, and confronted equally by famine and by disease, the disheartened survivors, after a seven months' struggle, took to their ships, and abandoning the settlement, set sail for the first port to which Providence might carry them. One vessel only, the *Caledonia*, returned to Scotland; the Spaniards and the perils of the deep accounted for the rest.

The Company meanwhile had fitted out a second expedition and the new fleet reached Darien in November. They found the colony deserted, and its capital, New Edinburgh, like Martin Chuzzlewit's thriving city of Eden, only a collection of rotting huts in a pestilential swamp. Nevertheless with native pluck and persistence the disillusioned settlers attempted to carry out the original plan; but attacked by the Spaniards on land and sea, and decimated by disease, they too in turn succumbed to fate. In April 1700 the worn-out remnant weighed anchor for the last time, and the colony was finally deserted. Of the four ships forming the second fleet not one ever reached Scotland; two were lost in a hurricane off Carolina, the others were respectively wrecked on the Cuban coast and taken by the Spaniards.

Thus died the national dream, which in the end cost some 2000 lives and upwards of £200,000 sterling.

Although many causes, including the incompetence and

folly of those responsible for its management, had contributed to the Company's downfall, the Scottish people laid the whole blame of the disaster at the door of England, whose hostile and jealous attitude alone had damned a scheme which otherwise would have set the country financially on her feet. "Nothing could be heard throughout Scotland," writes Sir Walter Scott, "but the language of grief and of resentment; indemnification, redress, revenge were were demanded by every mouth." Never before was there such a ferment of popular feeling —of anger and determination to get back, in the modern phrase, some of their own. The years brought no abatement of this settled purpose; King William died in 1702, and Queen Anne found the Darien business still the main obstacle to a treaty of union between the two kingdoms. In 1704 the Scots Parliament passed the famous Act of Security, and the relations of the sister countries became more strained than ever.

Now, it happened that one of the Darien Company's surviving vessels, the *Annandale,* had been seized in the Downs by order of the East India Company, to whom after long litigation, ship and cargo were forfeited by the English Court of Exchequer. While still smarting under this fresh affront the citizens of Edinburgh, looking down upon the Firth from their incomparable eyrie, beheld a stout ship, flying the foreign flag of England, enter the roadstead, having been driven by foul weather to refit in the Forth. She proved to be the *Worcester,* a vessel of 200 tons, mounting 20 guns, with a crew of 36 men, commanded by Captain Thomas Green. The rumour quickly ran through the city that she belonged to the hated East India Company, though in fact she was the property of a rival concern. Plainly Providence had delivered the *Worcester* into their hands in response to the national prayer to be avenged for the rape of the *Annandale;* but officialdom was cautious, and did not see its way safely to assist Providence in the matter.

Early on Saturday afternoon, 12th August, 1704, the High Street of Auld Reikie was busy with the wonted crowd of holiday idlers. About the Cross, where the press was thickest, there might have been observed—in the phrase of old-fashioned fiction—a man clearly charged

with some mysterious business, passing from group to group, scanning narrowly the faces of each, and time and again beckoning apart "such genteel pretty fellows" as seemed best suited to his secret requirements. His purpose, as appeared, was hospitable if eccentric; would they take their Saturday dinner with him somewhere in the country to meet a friend or two of his? This invitation was variously received; the prudent, being refused further particulars, declined with thanks; the timid hastened to plead a prior engagement. At last, having secured the fellowship of a score of likely lads, the Unknown set out for Leith, and while the company walked thither he spoke separately to each "with more or less freedom, according as he found their several pulses beat." As a result of these communications certain of his guests thought better of their bargain, and like those of Mr Morris in *The Suicide Club,* withdrew from so hazardous an adventure; but when Leith was reached the host found himself captain of a picked eleven—"as good gentlemen, and (I must own) much prettier fellows than I pretend to be"—who made up in zeal and courage for what they lacked in numbers.

After dinner measures were concerted, swords, pistols, and bayonets distributed, and with the first of the evening tide the leader and three of his men set sail from Leith in a boat well laden with the brandy, limes, and sugar requisite for brewing a mighty jorum of Mr Micawber's favourite beverage. Four more followed soon after, embarking from the neighbouring port of Newhaven, while the remaining four in a third boat made for an English warship lying in the Roads, and asked to see the captain, whom they knew to be ashore. After being allowed to view the vessel they directed their course towards the *Worcester,* then riding at her anchorage within gunshot of the man-of-war. That pleasure-parties of citizens should on a fine summer evening come out as sightseers to a deep-sea ship, aroused in the guileless bosoms of the *Worcester's* officers no shadow of suspicion. While these discussed with the occupants of the first boat "a hearty bowle" in the cabin, the second and third boats drew severally alongside, and their occupants also asked permission to come aboard. Curiously enough, the three parties did not appear to recognise each other, but

those first in possession courteously offered, as the accommodation of the *Worcester* was limited, to resign their places in favour of the newcomers, and proposed to return ashore. But this the ship's hospitable officers would by no means permit; so, there being ample liquor for all, "with abundance of thanks, ceremony, and complement" the fresh arrivals were introduced to the original revellers, and punch and harmony were the order of the hour. The sailors, too, were not forgotten, the crew being "lulled into a full security with drinking, singing, etc."

The termination of this entertainment is best described in the words of the chief performer, as given from his own account by Mr Hill Burton, who discovered the MS. in an old oak chest in a cellar of the Advocates' Library: — "At my first coming on board, I took (as it were) out of curiosity a survey of the ship's condition, and would needs see what conveniences they had got between decks, in the gun-room and forecastle, etc. Some of my companions were now and then for an amusement stepping out upon deck, and we agreed upon a watchword, when we should plant ourselves thus: two to guard the gun-room door, two on the main-deck by the forecastle, two on the quarter-deck, and the other five with myself in the cabin. And really were you to be entertained with all the several humours and little pleasant interludes that happened before, at, and after the time of our going on board till the end of the show (besides their mistaking me, forsooth, for some lord, and their treating me as such, and my taking upon me accordingly), I am persuaded you'd think the whole a most compleat scene of a comedy, acted to the life; and to conclude the story, I may say the ship was at last taken with a Scots song." Some of the crew gave their guests "a pretty rugged chorus," but they were soon overpowered, and by nine o'clock that night the visitors were in possession of the vessel. The captured crew were put ashore, the officers kept as witnesses, and the hatches and lockfast repositories having been duly sealed with the official seal of the Darien Company, Mr Roderick Mackenzie, its active and energetic secretary, discarding his incognito, concluded the labours of an eventful day.

Surely never in the history of "the Twelfth" was so remarkable a bag secured.

The amazing feat thus achieved by this resourceful civilian, seemingly so foreign to his peaceful function, proceeded upon a warrant of his court of directors, authorising him to seize the *Worcester* for having infringed their privileges by trading in Scottish waters, and also in reprisal, as belonging to the East India Company, but the methods adopted to carry out their orders were due to his native genius. Possible his family tree had already brought forth piratical fruit.

Next day a prize crew was obtained from Leith, and by Monday the *Worcester* was towed, for lack of wind, across the Firth and safely laid up in Burntisland Harbour, "without sail or rudder, as secure as a thief in a mill." Eight of her guns were landed and trained on the harbour mouth, experienced gunners were hired to man them day and night, and then Mr Mackenzie, with a mind at ease, sat down to make due report to his directors.

One wonders what the English man-of-war was about all this time, and how her captain regarded the secretary's naval victory. Whatever his views, the directors at any rate were enthusiastic in their approval, and proceedings were commenced forthwith before the High Court of Admiralty in order to condemnation of the ship and cargo as lawful prize by reprisal, the Scots Privy Council allowing the company a fair field, but taking no part in the proceedings.

The manifold and great losses sustained by the Darien Company included the disappearance of one of their ships, incongruously named the *Speedy Return,* on a voyage to the Indies some three years earlier, since when no tidings of her had been received. Her master was one Captain Thomas Drummond, whose name is frequently mentioned by Paterson in connection with the Darien expedition; her officers and crew mostly hailed from Leith. It was feared that she had been taken by pirates and that all on board had perished. Now, an examination of the *Worcester's* papers, together with sundry odd expressions "dropt" by members of her crew, led to the suspicion that they and their captain, Thomas Green, had been guilty of some very unwarrantable practices. Andrew Robertson, the gunner's mate, was heard to characterise

the seizure of the ship as the just judgment of God upon them all for the wickedness that had been committed in her; and George Haines, the steward, when in his cups, declared to a numerous company, "Lord God! our sloop was more terrible upon the coast of Malabar"—than that of a certain captain whose exploits were under discussion. Mackenzie, who was present, taking Haines aside, asked him of he knew anything of Captain Drummond and the *Speedy Return.* "You need not trouble your head about 'em," replied the steward, "for I believe you won't see 'em in haste." Pressed to explain himself, Haines said he understood they had turned "pirrats."

Among the belles of Burntisland, by whom the stranded crew were kindly entreated, none had such influence with Haines—especially when he was overtaken with drink—as a certain Miss Anne Seton, a damsel of nineteen, to whom the susceptible steward communicated "the secrets of his heart to a far greater degree than Mr Mackenzie," and no wonder. Through the indiscretion of this young lady these confidences "took vent," and reaching the ears of his shipmates caused them so to threaten Haines and his mistress that they were thereafter "shy in owning anything of the premises," either to Mackenzie or others. One Mrs Wilkie, whose son had sailed as surgeon in the *Speedy Return,* came over from the Canongate of Edinburgh to make inquiries; she had an interview with Haines, of which more hereafter. "The matter was in everybody's talk," and the High Street hummed with the news that Captain Green and his crew were pirates, and that the capture of the *Speedy Return,* with the murder of every soul on board, formed an item in the bloody catalogue of their crimes.

The Privy Council began at last to move; the *Worcester's* cargo was overhauled, her crew and other witnesses were judicially examined, and as a result of their investigations, the Council, on 13th February, 1705, ordered that Captain Thomas Green, John Madder, chief mate, John Reynolds, second mate, and fifteen of the crew should be tried by the High Court of Admiralty of Scotland for the crimes of piracy, robbery, and murder. Others of the crew were, upon the recommendation of the Council, admitted as Queen's evidence.

Accordingly on 5th March the trial began before James Graham, Judge Admiral, and five members of the Privy Council sitting as assessors, namely, the Earl of Loudoun, Lord Belhaven, Sir Robert Dundas of Arniston, Sir John Home of Blackadder, and John Cockburn of Ormiston. There was a formidable array of counsel as befitted the importance of the case, including, for the prosecution, Sir James Stewart, Lord Advocate; Sir David Dalrymple, Her Majesty's Solicitor; Sir Patrick Home, Sir Gilbert Elliot, and Francis Grant, most of whom were afterwards to adorn the judicial bench; Sir David Thoirs, Sir Walter Pringle, and four other advocates conducted the defence. The indictment, which was at the instance of Alexander Higgins, advocate, Procurator-Fiscal to the High Court of Admiralty, was a document of vast bulk, setting forth not only the alleged crimes, but the evidence whereby these were sought to be established. Briefly, the charges were that in the months of February, March, April, or May, 1703, the pannels, having sailed from England in the *Worcester* on pretence of trading to the East Indies, encountered another ship, bearing a red flag and manned by Englishmen or Scotsmen, off the coast of Malabar, near Calicut; that they, without any lawful warrant or just cause, attacked the said ship in a hostile manner by shooting of guns and otherwise, boarded her, killed her men, threw them overboard, and carried away the goods that were on board of her to their own vessel; and that they then disposed of the said ship by selling her ashore on the said coast. It will be observed that while the pirates' prey was not actually alleged to have been the *Speedy Return,* the jury were quite capable of drawing their own conclusions. Then followed a minutely-detailed account of the circumstances from which the pannels' guilt in the premises was inferred, but as these will appear upon the proof they need not now detain us.

On 7th March began the elaborate pleadings as to the relevancy of the indictment, which even for those spacious days are exceptionally verbose and tedious. One or two points, however, may be noted. It was argued for the pannels that the crimes libelled being alleged to have been committed by Englishmen on the coast of Malabar, the Court had no jurisdiction, and therefore the accused

should be remitted for trial to the proper Courts of Law in England. To this it was answered that the jurisdiction of the Court in all maritime causes, civil and criminal, and against all persons foreign or domestic, was established by statute, and that by common law pirates were liable to be tried in the country where they were apprehended. Again, it was contended that the crew could not be put on trial until their captain, under whose command they acted, had previously been tried; further, that the captain should not be tried before the crew, some of whom he had cited as witnesses, as, if they were acquitted, he was entitled to the benefit of their evidence. It was replied that this was arguing in a circle, and that the pannels were all indicted together as *socii criminis*. Much more weight attaches to other objections, viz., that the libel was too general and indefinite, that it did not specify the name of the ship alleged to have been pirated, the designation of the captain, the names of those said to have been murdered, nor any circumstances by which the ship in question might specially be distinguished; and that this was the more necessary as Captain Green held a commission under the Great Seal of England empowering him to act in hostility against pirates, in respect of which he might lawfully have taken a ship and killed her crew. To this it was answered that the libel was laid as specially as the circumstances of this remote crime would permit; piracy and murder were crimes alike punishable by the laws, whatever might be the name of the vessel pirated or to whatever nation she might belong; and that his commission afforded a strong presumption of the pannel's guilt, as he was thereby required to enter in his journal particulars of any such attack, and that his journal as produced contained no entry to that effect.

On 13th March the Court repelled all the objections, found the crimes libelled, "being proven by plain and clear evidence," relevant to infer the pains of death, and remitted the whole to the knowledge of an assize. Next day a jury was empannelled, and the prosecutor adduced his proof. One-third of the jury was composed of Forth shipmasters—not in the circumstances the most impartial tribunal, the first on the list being Archibald Drummond, skipper in Leith, who, if a kinsman of the missing captain,

would be apt to form a biassed judgment. Only one of the jury, however, seems to have been a shareholder of the Darien Company.

I can here but very briefly consider the purport of the evidence led. The trial was published, by authority, in folio (Edinburgh: Heirs of Andrew Anderson, 1705); and owing to its more than local fame was reprinted in the same form (London: Andrew Bell and Hugh Montgomery, 1705), a marginal glossary of the more difficult Scotticisms being added "for the benefit of Common Readers." Another report will be found in the *State Trials* (XIV., No. 438), and a sufficient abridgment is given by Arnot in his *Criminal Trials.*

The first witness called was the sea cook of the *Worcester,* Antonio Ferdinando, a man of colour, less euphemistically termed in the record, a black.

It was objected against Antonio that he was not worth ten pounds Scots, besides being a heathen whose evidence was inadmissable, but the Court repelled these objections. He swore that he believed in God, was born of pious parents, and himself, like Sir Thomas Browne, "dared without usurpation assume the honourable Stile of a Christian." Some two and half years earlier he had joined the *Worcester* at Callicoiloan (Quilon) on the Malabar coast, being engaged by Mr Loveday, the purser. The *Worcester* had then a sloop with her. Off that coast, between Tellicherry and Calicut, the *Worcester* and her sloop attacked another ship, sailed by white men speaking English, which ship "did bear English colours." The engagement, which was by way of a running fight, lasted two days; on the third day the stranger was boarded, her crew were killed with hatchets and thrown overboard, and her cargo was transhipped to the *Worcester.* She was then manned by some of the *Worcester's* crew, who sailed her to Callicoiloan and there sold her to one Coge Commodo, acting on behalf of a king of that country. In the engagement the witness received a wound, which he exhibited to the Court, and the coat he then wore was, he declared, his share of the spoils. This coat, in the judgment of Crown counsel, was of "Scots rugg." He was told by Madder, the mate, that he would be killed if he mentioned the affair to any person, either white or

black. During the engagement eight of the pannels were aboard the *Worcester,* and the others, including witness, on the sloop, except Reynolds, who was ashore. The captured ship carried about twenty guns.

Charles May, surgeon of the *Worcester,* said that he went ashore at Callicoiloan—apparently to attend certain patients unidentified—and remained a fortnight, during which time he heard the firing of guns at sea, and met Coge Commodo and Francisco de Olivera, the ship's "linguister" (interpreter), who told him that the *Worcester* had gone out and was fighting another ship. Next morning the witness saw from the shore the *Worcester* in her former berth some four miles out, with a strange vessel riding at her stern. The ship's longboat came presently ashore in haste, and her crew told him the captain had sent them for water, because they had spilt and staved all their water aboard; that they had been "busking" all night, and that they had brought a ship in with them. He then returned to Callicoiloan, where his patients were. A few days later, on going aboard to get some medicines he required, he found the *Worcester's* deck lumbered with goods and casks, and said to Madder, "What have you got there? You are full of business!" whereupon the mate "did curse him, and bid him go mind his plaister box." He afterwards learned that the prize was sold to Coge Commodo, who, as the "linguister" informed him, complained he had bought the ship too dear. May dressed Ferdinando's wound, which, in his opinion, was occasioned by a gun-shot. Two of the other sailors also required his surgical aid, but when he asked how they came by their wounds the mate told him to ask no questions, and forbade the men to answer any upon their peril. On May persisting in his inquiries an altercation arose, and Madder ordered him to be put on shore. It was discovered that the *Worcester* had sprung a leak, but instead of having her repaired at any port on that coast, Captain Green sailed her to Bengal, a five weeks' voyage—preferring, as appears, rather to risk the loss of his ship than court inquiry by putting into Goa or Surat. All this happened in January or February 1703.

Antonio Francisco, Captain Green's black servant, was next called, to whom it was objected that he was not only

worth nothing, but was "slave to Captain Green" and had no religion. The Court, however, admitted his evidence. The witness swore that he enjoyed the same spiritual privileges as his coloured colleague. He joined the ship at Delagoa. Off the Malabar coast he heard firing from the *Worcester* but saw nothing of the engagement, being at the time chained and nailed to the floor of the forecastle—why, he does not inform us. Two days afterwards he saw goods brought aboard, which, Ferdinando told him, were from a captured ship, whose men had been killed after she was taken. Ferdinando exhibited his wound received in the fight, and told Francisco to say nothing about the engagement. The witness remained chained in the forecastle for two months.

James Wilkie, tailor, burgess of Edinburgh, stated that in October, after the cutting out of the *Worcester,* he accompanied his mother to Burntisland with a design to learn some news of his brother Andrew, who had sailed as surgeon in the *Speedy Return.* At the house of Mrs. Seton they fell in company with the prisoner Haines, who in answer to his inquiries replied, "Damn me, what have I to do with Captain Drummond?" but "after that they had taken some cups about," Haines became more communicative, and said that when upon the Malabar coast he heard from a Dutch vessel that Drummond had turned pirate. Haines added that he had in his custody at the time the *Worcester* was seized in the Roads of Leith that which he would not have fallen in the seizers' hands for twice the value of the ship, and that he threw it overboard after the ship was taken, saying, "Let them seek it now in the bottom of the sea!" What "that" was we shall learn later.

Kenneth Mackenzie, indweller in the Canongate, said that he was present on the occasion referred to by the last witness. He heard Mrs. Wilkie entreat Widow Seton to obtain from the *Worcester's* crew some news of her son, and next day Anne Seton told him that Haines fell in a passion when she questioned him, swearing, not without reason, that they had a design to pump him, but he would tell nothing.

William Wood, gunner of Her Majesty's artillery, described his meeting at Burntisland with Haines, who

having drunk "pretty warmly," fell into a melancholy fit which he accounted for as follows:—"It is a wonder that since we did not sink at sea, God does not make the ground open and swallow us up when we are come ashore, for the wickedness that has been committed during this last voyage on board that old bitch *Bess*"—pointing to the dismantled ship. Thereafter, as they walked upon the Links, Wood, with some lack of taste, observed that Madder's uncle had been boiled in oil at Amsterdam for piracy, whereupon Haines rejoined that if what Madder had done during the voyage were known, he deserved as much as his uncle.

John Henderson, writer in Edinburgh, who was present, corroborated; and Anne Seton—to whose evidence the curious objection taken that she could not be a witness because she was a woman, was repelled—confirmed the story, omitting with maiden modesty the nautical term of endearment applied by Haines to his ship. She also had heard his reference to the *pièce de conviction* which he had committed to the deep. Haines told her he knew more of Captain Drummond than what he would express at that time.

John Brown and Archibald Hodge, both skippers in Leith, said they assisted at the discharge of the *Worcester's* cargo when she was "rummadged" by order of the Privy Council. They found upon the goods no such marks or numbers as was customary for identifying the owners to whom these were consigned. The goods, however, were regularly enough stowed.

John Glen, goldsmith in Leith, stated that the second day after the *Worcester* arrived in the Roads he visited that ship. In the cabin Madder took a seal out of his pocket, and asked Glen what he thought of the Scots African Company's arms. Glen examined the seal, "and found thereon the St. Andrew's Cross, a Dromedarie or Camel with a Castle on the back of it, and a ship with a Rising-Sun above the Helmet, and two wild Men as Supporters"—in a word, the official blazon of the Darien Company. The seal was the size of an English halfcrown, with a handle of lignum vitæ, and was quite different from that now produced in Court by the defence.

The proof for the prosecution closed with the putting

in of certain instructions and letters found among Captain Green's papers, from which it appeared that his owners had given him unusual and suspicious orders regarding the conduct of the voyage. He was to write to them in cypher only, without title, date or signature, and under cover to a third party, "the names of any dead" to be appended at the end of his letters without comment; he was to allow no letters whatever to be sent to England by any other of the ship's company; and when the *Worcester's* cargo was "provided," he was to sell the sloop for what she would fetch. The care and secrecy of the crew would be rewarded at the voyage's end by a month's pay gratis, and also by a share in the benefits accruing from "the whale fishing"—which, in view of the latitudes selected for carrying on that interesting industry, would, one thinks, be highly problematical. Such sailing orders are scantly consistent with the ostensible pursuit of peaceful trading, and give additional colour to the evidence of the blacks and the crapulous babblings of Haines. The nature and value of her outward cargo—arms and ammunition worth under £1000—are remarkable for a 200-ton ship of 20 guns, with a crew of 36. Whatever the *Worcester's* game may have been, she was plainly not the simple merchantman she seemed.

No witnesses were called for the defence, and the proof having lasted twelve hours, counsel on both sides of the bar addressed the jury, only the speech for the prosecution being preserved. At the conclusion of the evidence the jury asked the Court's direction on the law as to the proviso in the interlocutor of relevancy that the charges must be proven by "clear and plain evidence." The Court directed that though the crimes libelled were not proved by direct probation, yet if they were made out by the qualifications and circumstances, even if each of these were not proved by two direct witnesses, the same should be held as clear and plain evidence. In other words, the jury could go as they pleased. The speech of the Solicitor-General, Sir David Dalrymple, in later life the erudite Lord Hailes, need not detain us; in its recapitulation of the evidence it reminds one rather of the stereotyped judicial charge. He assumed throughout that the ship destroyed was Captain Drummond's, and in conclusion

observed, "Consider how much light the providence of God has discovered in so dark a crime committed in a place so distant and solitary, and I am confident you will conclude with me that the murder and piracy is proven." It was the way of Crown counsel in those days to throw the *onus probandi* upon Providence, especially when they found their case come out a trifle thinner than they could wish. The jury were then enclosed till the next day at ten o'clock, when they delivered their verdict in the following terms:—"They by plurality of votes find that there is one clear witness as to the piracy, robbery, and murder libelled, and that there are accumulative and concurring presumptions proven for the piracy and robbery so libelled; but find that John Reynolds, second mate of the said ship, was ashore at the time of the action libelled." Thereafter David Forbes, advocate, on behalf of the Darien Company, protested in advance against the ship and cargo being confiscated to the Crown, they having previously been adjudged to the said Company by way of reprisal for the seizure of the *Annandale*. The diet was then continued till 21st March. On that date the judge and assessors, by the mouth of John Park, dempster of Court, sentenced Captain Green, Madder, and three of the crew to be hanged within floodmark on the Sands of Leith upon 4th April, four others on the 11th, and the remaining five on the 18th; ordained the *Worcester* and her cargo to be escheat and inbrought to Her Majesty's use; and assoilzied (discharged) the said John Reynolds.

Thomas Linstead, the supercargo, though included in this sentence, was recommended for reprieve. He had, it appears, on 16th March emitted a declaration in presence of the Lord Advocate to the effect that when the *Worcester* was at Callicoiloan in January 1703 he went ashore to look after the goods they had sold, the ship proceeding with her sloop to Calicut. A week later he heard from some fishermen that they had seen the *Worcester* fighting at sea with another ship. He then sent a message to Calicut asking what had happened, and was told, in reply, to mind his own business. Later Coge Commodo took him on board the prize, which he (Coge) had purchased—a vessel of about 100 tons, mounting 12 or 13 guns, and, in Linstead's opinion, of Scottish build. Whether this was an accurate

description of the *Speedy Return* we cannot tell. When he rejoined his ship he could get no information regarding the action. He proceeded with her to Bengal.

On 27th and subsequent days of March two others of the condemned, George Haines and George Bruckly, emitted long confessions in presence of the Judge Admiral, fully admitting their part in the taking of the vessel and the murder of her crew as set forth in the indictment, but with many corroborative details upon which I have not space to enter. Both men alleged that the ship was in very deed Captain Drummond's, a fact well known among the *Worcester's* crew. If the statement of these penitants be accepted, no doubt as to the pannels' guilt is possible. Haines said he had kept a particular note of the matter in his journal, which, when the *Worcester* was seized, he threw overboard, lest it should furnish evidence of the crime.

Whatever was thought of the verdict at the time, in the considered judgment of our historians, Captain Green and his men were no white-robed victims of a blind and unreasoning resentment. Mr. Hill Burton concludes "that the crew of the *Worcester* had been guilty of some acts of violence of the kind then so common on the high seas"; and Mr. Andrew Lang pithily sums up, "the *Worcester* had been guilty of piracy." Whether such evidence would to-day be held to warrant a conviction is a different question.

Angry eyes across the Border had been watching the progress of these judicial doings, and we may imagine with what indignation the verdict was received in London. "This business of Green is the devil and all," wrote Mr. Secretary Johnstone of Waristoun to his friend Baillie of Jerviswood: "It has spoiled all business [*i.e.* as to the Union]. I am told it was two hours in the Cabinet." In short, no Englishman believed in Green's guilt: "Nay, in my opinion, faith, too, in this matter must be the gift of God, for I doubt much that it's in the power of man to convince this nation of it." The witnesses, it was said, were suborned, the confessions induced by threats of torture, and the whole affair was a Jacobite plot. There were transmitted from London to the authorities in Edinburgh the affidavits of two sailors, Israel Phippany—prime

name for a pirate—and Peter Freeland, who alleged that on 26th May 1701 they had sailed from Glasgow in the *Speedy Return* upon her last voyage. At Maritan in Madegascar, on a date unspecified, while Captain Drummond and his officers were ashore, the ship was taken by pirates, who compelled the crew to sail her to Rajapore, where she was burnt, the crew escaping in another vessel. They knew nothing of the *Worcester* till their return to England. Of the character and credibility of these mariners we have now no means of judging. As they stated that everyone escaped unhurt, it is curious that no other member of the ship's company ever found his way home. The Scots Privy Council retorted by sending to England the confessions of Haines and Bruckly. We shall hear again of Captain Drummond in Madegascar.

On 25th March intimation was received of the Queen's desire that the executions should be delayed till her pleasure was known. The Privy Council protested that the trial had been strictly regular, the confessions removed any doubt of the prisoner's guilt, and they begged that no interference with the sentence might be attempted. "If the Queen shall grant them remissions," wrote Baillie to Secretary Johnstone, "it will spoil the business of Parliament [*i.e.* the Union], and I'm afraid will so exasperate the nation as may render it difficult to make them join with England upon any terms whatever." The day before that fixed for the first executions, however, her Majesty commanded a reprieve until further inquiry, and the Council postponed the ceremony for a week.

The fateful day was the 11th of April. The Privy Council met on the 10th to decide what was to be done. The High Street was thronged by excited crowds, swollen by those who had come in from the country to see the law take its course, as did their heirs and successors a generation later in the affair of Captain Porteous. The Council, saving the Queen's grace, were between the devil and the deep sea; they feared to move either in mercy or justice. Early next morning "a flying packet" arrived from London, and the rumour spread that the prisoners were pardoned. In the "laigh" counsel-room below the Parliament Hall the Council met at nine o'clock to consider the Royal message; Anne, while urging further

delay, left the decision in their hands. From without the chamber doors the fierce clamour of a formidable mob besieging the council-house broke in upon their deliberations, the uproar continuing for two hours. The people's demand for vengeance could no longer safely be withstood —it was a case of sacrificing to the popular fury either Captain Green or themselves; so they signed an order for the first executions to proceed, and at eleven o'clock "word came out of the Council that three were to be hanged." "This appeased the mob," says Wodrow in his *Analecta,* "and made many post away to Leith, where many thousands had been [assembled], and were on the point of coming up in a great rage. When the Chancellor came out, he got many huzzas at first; but at the Tron Kirk, some surmised to the mob that all this was but a sham; upon which they assaulted his coach, and broke the glasses, and forced him to come out and go into Mylne's Square, and stay for a considerable time." Having in this characteristic manner relieved their feelings, the populace flocked down to Leith, where on three gibbets set up in the sands were presently suspended for their satisfaction the bodies of Captain Green, Madder the mate, and Simpson the gunner. Wodrow, who was a spectator, thus describes the scene:—"The three prisoners were brought with the Town-guards, accompanied with a vast mob. They went through all the Canongate, and out at the Water-port to Leith. There was a battalion of foot-guards, and also some of the horse-guards, drawn up at some distance from the place of execution. There was the greatest confluence of people there that ever I saw in my life, for they cared not how far they were off, so be it they saw. Green was first execute, then Simpson, and last of all Mather [Madder]. They every one of them, when the rope was about their necks, denied they were guilty of that for which they were to die. This indeed put all people to a strange demur. There's only this to alleviate it, that they confessed no other particular sins more than that, even though they were posed anent their swearing and drunkenness, which was weel known."

So was the *Speedy Return* finally avenged. No further victim was offered in expiation of her fate, for the remaining prisoners were afterwards set free. The international

ill-feeling aroused by this unfortunate business became, curiously enough, a factor in the promotion of the union effected two years later between the kingdoms; but had the Queen persisted in reprieving Green, there is little doubt that the Porteous tragedy would not have lacked a precedent.

Among the crowd that jeered and jostled at the gallows' foot stood a young man in deep mourning, a law student of twenty who had attended the trial, "was sensible with what injustice it was carried on," and to whom Green's only crime seemed that of being an Englishman. He waited patiently until the body was cut down, when, as a last mark of respectful sympathy, he "carried the head of Captain Green to the grave." This solitary mourner was Mr. Duncan Forbes of Culloden—*clarum et venerabile nomen*—then about to leave Scotland for Leyden to pursue those studies in the Civil Law which led him in due course to the President's chair. Thirty years later Forbes, as Lord Advocate, was to witness an even more striking outburst of the unruly passions of his countrymen when inflamed by resentment of foreign interference with their lawful prey: what respect the Edinburgh mob paid to Queen Caroline's reprieve of Captain Porteous history relates. In the debate in the House of Commons in 1737 on the motion for the commitment of the Provost's Bill, the measure by which the Government sought to punish the critizens' enthusiasm for abstract justice, Forbes made a brilliant and patriotic speech, and in rebutting the charges brought against the City Guard he referred to the case of Captain Green, and his own connection with it as already mentioned. "In a few months after [the executions]," he declared, "letters came from the captain for whose murder, and from the very ship for whose capture, the unfortunate persons suffered, informing their friends that they were all safe. These letters, sir, were of a date much later than the time when the crimes for which Green was condemned were pretended to be perpetrated." The dates of these letters, whence they were written, and to whom addressed, Forbes told neither to the House nor to posterity, and historians have failed to trace in the records of the time any other reference to their receipt. Yet if documents of such interest and importance *did* come to

hand, one would expect to find more than this single casual allusion to the fact. I think it probable that Forbes was merely repeating a current rumour to that effect, and that he had no personal knowledge of their existence. In a letter to his brother, dated 20th April 1705, printed by Mr. Hill Burton in his *Life of Duncan Forbes of Culloden,* Forbes writes: —

> The news of the town is the discovery of the oath of piracy taken as is alleged by Captain Green and his men, which George Haines, one of the men that has confessed, says to have been thus:—That Captain Green and the rest of the crew, were let blood of (by Samuel Wilcocks, surgeon, mate of the ship) in one bowl, that their several bloods together with a little claret wyne were mixed, and they made to sitt on their knees; that they were made to eat a little bread with the liquor, and in this fashion take a sacramental oath of secrecy in the horridest tearmes that could be devised. Upon this discovery Haines and Wilcocks were confronted before the Advocate, where the one alledged and the other denyed most pointedly. Its alledged, also, that there is a watch found which Captain Green had given to a Miss of his in Town with T. D. the two first letters of Captain Drummond's name engraved on it. What truth is in this I know not.

Neither of these points—the latter, if true, would have been a vital one—was mentioned at the trial, and I suspect that the letters from the *Speedy Return* existed, as they did, but in the news of the town.

There is inserted as a pendant to the report of Green's case in the *State Trials* an account of the Campden Wonder, the well-known mystery of Joan Perry and her two sons, hanged in 1660 for the murder of a venerable gentleman who turned up later safe and sound—a signal instance of the danger of convicting without due proof of the *corpus delicti,* to say nothing of the *corpus vile.* Captain Green has been held a not less notable example, mainly upon the statements contained in a work entitled *Madagascar, or Robert Drury's Journal,* published in 1729. Drury alleged that as a boy of fourteen he was wrecked in the *Degrave,* East Indiaman, upon the coast of Madagascar, John Bembo (Benbow), son of the famous admiral, being fourth mate. There he found, holding

high office under the native king, one Captain Drummond, a Scotsman, whose ship had been taken by pirates. During most of Drury's fifteen years' sojourn Drummond played an adventurous and varied part in the island politics, to which he literally devoted his life, being slain by a member of the opposition, as Drury afterwards learned. "But they told me one remarkable piece of news," he adds, "for the truth of which I must refer my readers to further inquiry. They said that this Captain Drummond was the very same man for whose murder and his crew's one Captain Green, commander of an East India ship, was hanged in Scotland." Drummond, as appears, had not deemed the fact worth mentioning to Drury, though they were closely associated for several years. Drury "understood that Mr. Bembo got to England"; he himself returned in 1720, published, like many a wiser man, his volume of reminiscences, and died before 1750. A posthumous edition of his book concludes with the following note:—"*N.B.*—The Author (for some Years before his Death) was to be spoken with every Day at *Old Tom's* Coffee-house in *Birchin Lane;* at which Place several inquisitive Gentlemen have receiv'd from his own Mouth the Confirmation of those Particulars which seem'd dubious, or carried with them the least Air of a ROMANCE." One would gladly have taken advantage of this guarantee to put certain points to the traveller, but for many years historians—though inquisitive gentlemen enough—have rested satisfied with his good faith. The last edition of the *Journal* (London, 1890), edited with an introduction and notes by Captain Pasfield Oliver, R.A., author of a history of Madagascar, disposes, however, of Drury's claim to strict veracity, so that, after all, his adventures are to be ranked with those recounted in a more famous work "which treateth of the Way towards Hierusalem and of Marvayles of Inde." He was, as appears, a pirate; and his *Journal* was edited either by Defoe or by some sedulous ape to that ingenious author, the materials being, appropriately enough, stolen from French sources.

Benbow, at least, was genuine, and from certain anecdotes of him given in the *Gentleman's Magazine* for April 1769, it seems that he was in fact shipwrecked in the *Degrave*. He, too, kept a journal, which was accidentally

destroyed by fire in 1714. "Mr. Benbow's narrative (to those who have read it) is a strong confirmation of the truth of this [Drury's] journal, with which (as far as it went) it exactly tallied," says the writer of the memoir; but, as Mr. Andrew Lang remarks, Drury's editor may have known and used Benbow's MS., which would account for the coincidence. Be that as it may, the story told of the *Speedy Return's* commander by Messrs. Phippany and Freeland was, of course, common knowledge and available as copy; but there is no evidence that Benbow mentioned Drummond. The writer also tells us that Drury was after his return employed as porter at the East India House, a situation unlikely to foster kindly feeling towards the Darien Company. The appointment is significant.

That Green and his crew *were* guilty of piracy plainly appears from *A New Account of the East Indies,* by Captain Alexander Hamilton (Edinburgh, 1727). In February 1703, at Calicut, Green came on board Hamilton's ship at sunset "very much overtaken with Drink, and several of his Men in the same condition." He wanted to dispose of some small arms, powder, and shot, the balance of his cargo brought from England, the greater part of which he had already sold to good advantage among the pirates of Madagascar, but Hamilton declined to trade and advised him to hold his tongue. Then Madder the mate came aboard, expressing a desire to transfer his services to Captain Hamilton, and, being in the condition technically termed "greetin' fu'," declared with tears that if the deeds done on their voyage should come to light it would bring them all to shame and punishment, adding with prophetic truth — for it was indeed by the strong waters of earth that the *Worcester* was finally overwhelmed—"he was assured that such a Company of Drunkards as their Crew was composed of could keep no Secret, tho' the Discovery should prove their own Ruin." Hamilton replied that he heard at Callicoiloan they had sunk a sloop, with ten or twelve Europeans in her, off that port—the episode, he assumed, which was troubling the conscientious mate—and that the fact was no secret there. This Madder did not deny. Next day to Hamilton, as he walked "along the Sea Side," came May the surgeon, offering his services in exchange for a passage

home: Madder, he said, had treated him with blows for asking a pertinent question of some wounded men, who were hurt in the engagement with the aforementioned sloop. But Hamilton had heard too much to be contented with their conduct, so for the remainder of his stay he "shunn'd their Conversation." Of the justice of their subsequent conviction he expresses no opinion; "I have heard of as great Innocents condemned to Death as they were," is his elegy for the martyrs of the *Worcester*.

The gentle heart of Duncan Forbes, that indefatigable golfer, who was wont to play on Leith sands when the Links were white with snow, must, Mr. Lang gracefully suggests, often have been touched by the sight of Captain Green's "wuddie." Had his lordship's library contained a copy of Hamilton's instructive treatise he might have enjoyed his game with a quiet mind.

THE ADVENTURES OF DAVID HAGGART

He hath as fine a Hand at picking a Pocket as a Woman, and is as nimble-finger'd as a Juggler.—If an unlucky Session does not cut the Rope of thy Life, I pronounce, Boy, thou wilt be a great Man in History.

—*The Beggar's Opera.*

THE day of David Haggart, thief, murderer, and man of letters, dawned at Edinburgh in 1801, and closed untimely in the same city in 1821, the year in which died a greater adventurer, Napoleon. During the short course of his pilgrimage he saw much of men and manners in many parts of the United Kingdom, his way of life affording a rare opportunity to compare the administration of justice in vogue in the respective countries. He was convicted time and again of divers minor offences, on four occasions he contrived to escape from prison, and his activities ceased only as the result of the fortuitous slaying of a turnkey at Dumfries. Born too late to take proper rank with the heroes of the *Malefactors' Bloody Register,* he was yet in time for Knapp and Baldwin's *Newgate Calendar* and Camden Pelham's *Chronicles of Crime;* but it is regrettable that Borrow, who enjoyed the privilege of his acquaintance, found no room for him when compiling in 1825 the six volumes of *Celebrated Trials.* This neglect, however, has since been handsomely atoned by the reception of David, at his own valuation, into the Valhalla of the *Dictionary of National Biography,* in which he boasts, with others of our greatest, his memorial column.

Deacon Brodie, the most distinguished Scot among "gentlemen who follow the employment of highway robbery, housebreaking, etc.," left no autobiography. Secure in the eminence of his fine achievement he was content to base his title to immortality upon the admiration of his contemporaries, well assured that future generations would recognise his right. In his case no such adventitious

aid was needed to keep green a memory so gay and picturesque and gallant: deeds not words are the foundation of his fame. It is otherwise with the audacious boy who holds in Edinburgh tradition a place but little lower than that assigned to his accomplished forerunner. David Haggart lives by reason of his "Life," written by himself whilst under sentence of death for a crime which in respect of artistry would have failed to satisfy De Quincey, and on its merits could have won for the perpetrator no wreath of posthumous renown. But David was cut off in the heyday of youth, at an age when the great Deacon had barely begun to put forth his first exiguous shoots of evil, and with a knowledge of human nature remarkable in one of so inconsiderable years, he realised that, rascal as he was, he yet was not bad enough to be remembered. No report of his trial had appeared beyond such scant notices as were furnished by the local Press, and a nine days' wonder was insufficient to satisfy his young ambition. The enforced leisure of his seclusion, and the solitude, so favourable to literary labour, of the condemned cell, begat in him a bold idea. He had, in the course of his calling, often occasion to note the transient infernal glory cast upon such of his persuasion as ended their career on the scaffold by the printed appearance of their "Last Speech and Dying Confession," composed by the prison chaplain according to rule, and adorned with the inevitable woodcut. He also knew that the broadsheets conferring this brief apotheosis were not more flimsy and impermanent than the falsehoods embodied in their rude topography. How then if he should write in full an account of his twenty years, not as these were actually mis-spent, but as, with his inverted notion of greatness, he would fain have lived them, which, published in book form at a convenient price, might enable him to palm off upon posterity for the genuine Haggart the David of his romantic dreams?

Hints of this inspiration thrown out to sympathetic friends, but without disclosure of how he meant to manipulate his "facts," met with cordial approval. A respectable Writer to the Signet, his agent at the trial, undertook to see the work through the press and to write a preface. Another worthy member of the Society, who shared the hobby of Mr. Cranium in *Headlong Hall,*

offered for an appendix some curious information respecting his bumps, which the interesting subject, with his tongue in his cheek, conscientiously annotated. Finally, he himself, as Henry Cockburn informs us, drew his own portrait in the Iron Room of the Calton Jail—a charming sketch, doing, we may be sure, the original ample justice —to serve as frontispiece, which, with a facsimile holograph certificate of the authenticity of the entire work, formed most suitable embellishments. In a second edition, which by the way was speedily called for, the head of the portrait was for some reason re-drawn by another and yet more flattering hand, but not to the improvement of the plate. I know not who is responsible for the glossary of thieves' slang which further enriches the volume. This, though reprobated by purists, not the least popular of the contents, was rendered necessary on David's inspiration to tell his tale, not in the sanctimonious twaddle of the broadsheets, but in the living cant language of his kind— "penned," as Borrow puts it, "by thy own hand in the robber tongue."

The venture proved an immediate success. The book was devoured by the virtuous; they experienced in its perusal a pleasing thrill, and felt for the nonce vicariously wicked. The interest aroused on all hands was highly gratifying to the criminal classes, who regarded the memoir as their Odyssey. The anathemas of the godly, well meant but arguing a lack of humour, served merely to widen its appeal; if the book were truly damnable, excommunication had the opposite effect. A critic of the 'nineties has pronounced in another connection this dictum: "The morality of art consists in the perfect use of an imperfect medium"; and again, "Vice and virtue are to the artist materials for an art." Judged by these canons David Haggart is justified of his work; and even in an age when Art for Art's sake is become a discredited dogma, one must admit that no better guide to roguery was ever written.

The book, which went forthwith into a second edition, has been repeatedly reissued in various forms—even so recently as 1882 one appeared with the delightful subtitle: "An Edinburgh Fireside Story"; and notwithstanding all efforts to the contrary, it is still accounted a real

document humain. As such it has been accepted even by so keen a connoisseur in knavery as Mr. Charles Whibley. Could the young author have foreseen the inclusion of his "faked" personality amid the goodly fellowship of *A Book of Scoundrels,* he would have felt that his ingenious labours were not in vain. Yet, after all, the "Life," despite the animadversions of the day and Lord Cockburn's later strictures, is not wholly fictitious: "Some truth there was, but dashed and brewed with lies"; a modicum of straw went to make the bricks of Haggart's monument. He verily was an habitual thief; he did break prison, murder a warder, and pay the penalty appropriate to his deserts. But in reading him we must bear always in mind that his criminous geese are avowedly swans of darkest plumage, and while we discuss with gratitude his bill of fare, let us have ever a ready eye for the salt-cellar.

David Haggart, according to his truculent title-page, *alias* John Wilson, *alias* John Morison, *alias* Barney M'Coul, *alias* John M'Colgan, *alias* Daniel O'Brien, *alias* The Switcher, was born at the farm-town of Goldenacre, near Canonmills, then a suburb of Edinburgh, on 24th June 1801. His father, John Haggart, was a gamekeeper, who, to meet the wants of an increasing family, adopted the additional occupation of dog-trainer, a capacity in which he "was much taken up in accompanying gentlemen on shooting and coursing excursions." A sporting element was thus early introduced into our hero's life. The boy assisted his father on these occasions, and twice spent a season in the Highlands, carrying the bag. We may believe that he was, as he says, "a merry boy"; that the sportsmen took to him, and tipped him more handsomely than wisely. To their thoughtless generosity he attributes his future extravagance. After the manner of his kind he received at home a strict religious training, and his education was entrusted to one Robert Gibson at Canonmills, whose school was later removed to Broughton. David claims to have been always dux of his class, but admits he was sometimes "turned down for kipping." At ten a severe illness interrupted his studies, and on his recovery, being master of the three R's, he was kept at home to help his father. Henceforth experience was to be his teacher, and he lost no time in learning his new lessons.

A bantam cock, belonging to a lady "at the back of the New Town," caught his sporting fancy; and an offer to acquire it legitimately being rejected, he stole the fowl. Rob the Grinder, who also was "led away by birds," has remarked the curious affinity between those innocent creatures and crime. With his next offence, the robbery of a till from a Stockbridge shop, David took his first serious step in his profession. Repentence, he explains, would have been useless: "It was all just *Fate*." In Currie one day for an outing with a chum, Willie Matheson of Silvermills, he captured near that village a pony, on which both boys mounted and made for home. At Slateford, Willie, who was no horseman, fell off; but David rode the prize back to Silvermills, where he concealed it in a hut which they "had formerly built for a cuddie." It was ultimately recovered, much the worse for the adventure, by the owner, a vendor of eggs and butter, who vowed vengeance upon the ravishers; but the good wives of the quarter, with whom David was a favourite, appeased his wrath by purchasing his entire stock.

Passing from these childish follies, we find him, in July 1813, a boy of twelve at Leith races—that sport of our forebears immortalised by Fergusson. "In July month, ae bonny morn," the poet tells us that he encountered upon the like occasion a damsel whose name was Mirth. Our hero, less fortunate, there made the acquaintance of a more potent spirit, and the intoxicated boy enlisted as a drummer in the West Norfolk Militia, then stationed in Edinburgh Castle. He remained with the battalion a year, attaining some proficiency in blowing the bugle, but the red coat so attractive to his boyish eye proved too straitlaced a garment for one of his wayward disposition, and when, in July 1814, the regiment was ordered to England to be disbanded, David obtained his discharge.

To this period belong his parleyings with George Borrow upon the Castle Braes, set forth in the early chapters of *Lavengro*. The parents of the future philologist were living in Edinburgh, where his father, an adjutant in the Norfolks, acted as recruiting officer—perhaps the same from whom on the Links of Leith David took the King's shilling; and George, who was two years David's junior, was prosecuting his studies at the old High

School. The rowdy evangelist, as Mr. Lang somewhere terms him, did not publish his reminiscences of Haggart until 1851, and lapse of time must have affected his memory, for he describes David as a lad of fifteen, when in fact the boy was barely twelve, and it may be questioned whether in other respects his portrait is much more accurate than the author's. Readers of *Waverley* will remember the feature of old Edinburgh life called *bickers,* of which in his General Preface Sir Walter gives so vivid an account. Haggart tells us nothing of these mimic battles, but Borrow devotes a chapter to chronicling his own prowess as a leader of the Auld against the New Toun callants. The scene of these conflicts was the grassy slopes by the Nor' Loch, then little better than a grievous swamp, near the ruins of the Wellhouse (vulgarly, Wallace) Tower. On one occasion the valient George, having succumbed to the superior parts of "a full-grown baker's apprentice," was like to be brained with a wheel-spoke. What followed he describes in a single breathless sentence:

> Just then I heard a shout and a rushing sound; a wild-looking figure is descending the hill with terrible bounds; it is a lad of some fifteen years: he is bareheaded, and his red uncombed hair stands on edge like hedgehogs' bristles; his frame is lithy, like that of an antelope, but he has prodigious breadth of chest; he wears a military undress, that of the regiment, even of a drummer, for it is wild Davy, whom a month before I had seen enlisted on Leith Links to serve King George with drum and drumstick as long as his services might be required, and who, ere a week had elapsed, had smitten with his fist Drum-Major Elzigood, who, incensed at his inaptitude, had threatened him with his cane; he has been in confinement for weeks, this is the first day of his liberation, and he is now descending the hill with horrid bounds and shoutings; he is now about five yards distant, and the baker, who apprehends that something dangerous is at hand, prepares himself for the encounter; but what avails the strength of a baker, even full-grown?—what avails the defence of a wicker shield?—what avails the wheel-spoke, should there be an opportunity of using it, against the impetus of an avalanche or a cannon ball?—for to either of these might that wild figure be compared, which at the distance of five yards, sprang at once with head, hands, feet, and body, all together, upon the champion of the New Town, tumbling him to the earth amain.

David, having vanquished the incipient baker, rallies the Auld Toun forces, and drives the enemy from the Braes. During the summer holidays that year Borrow spent much time exploring the Castle Rock. One day, as he was negotiating the Kittle Nine Steps, pleasantly commemorated in *Redgauntlet*, he spied a red-coated figure seated on the extreme verge of the precipice. Approaching " the horrible edge " he recognised our hero, and thus addressed him:

" What are you thinking of, David? " said I, as I sat behind him and trembled, for I repeat that I was afraid.

David Haggart.—I was thinking of Willie Wallace.

Myself.—You had better be thinking of yourself, man. A strange place this to come to and think of William Wallace.

David Haggart.—Why so? Is not his tower just beneath our feet?

Myself.—You mean the auld ruin by the side of The Nor' Loch—the ugly stane bulk, from the foot of which flows the spring into the dyke, where the watercresses grow?

David Haggart.—Just sae, Geordie.

Myself.—And why were ye thinking of him? The English hanged him long since, as I have heard say.

David Haggart.—I was thinking that I should wish to be like him.

Myself.—Do ye mean that ye would wish to be hanged?

David Haggart.—I wad na flinch from that, Geordie, if I might be a great man first.

Myself.—And wha kens, Davie, how great you may be, even without hanging? Are ye not in the high road of preferment? Are ye not a bauld drummer already? Wha kens how high ye may rise?—perhaps to be a general or drum-major.

David Haggart.—I hae na wish to be drum-major: it were na great things to be like the doited carle, Else-than-gude, as they call him: and troth, he has nae his name for naething. But I should have nae objection to be a general, and to fight the French and Americans, and win myself a name and fame like Willie Wallace, and do brave deeds, such as I have been reading about in his story book.

Myself.—Ye are a fule, Davie; the story book is full of lies. Wallace, indeed! the wuddie rebel! I have heard my father say that the Duke of Cumberland was worth twenty of Willie Wallace.

David Haggart.—Ye had better say naething agin Willie Wallace, Geordie, for, if ye do, De'il hae me, if I dinna tumble ye doon the craig.

I pretermit for lack of space Borrow's moral comments, merely remarking that to record at forty-eight this conversation held as a child of ten is a high tribute to his power of memory.

John Haggart, who had meanwhile removed to the Canongate, sent his returned prodigal again to school. What kind of scholar the ex-drummer made is not recorded. Equipped for a commercial life by a nine months' course of arithmetic and book keeping, he was apprenticed to Messrs. Cockburn & Baird, mill wrights, with good prospects of doing well; but the firm failed, and David was once more without an occupation.

To follow him in any detail through the long-drawn catalogue of his misdeeds, even had space so served, were tedious, and, if Lord Cockburn's judgment be sound, unprofitable. I propose, therefore, only to take a rapid glance here and there at his brave pages, referring the reader who should savour his style to the book itself. Let none such shrink from the perusal because the author happened to be hanged, for, as has been well observed of Wainwright, "The fact of a man being a poisoner is nothing against his prose."

Although, pending his apprenticeship, David by day conformed to the common standard, he had, he tells us, "various adventures in the streets at night"; and his operations were only limited by "want of knowledge of the flash kanes, where I might fence my snibb'd lays." His attention, therefore, was at the outset confined exclusively to "blunt." Thrown idle in April 1817, in less than three months he had greatly increased his experience: "Everything I saw, or heard, or did, was wicked; my nights and my days were evil." He fell, in other than the scriptural sense, among thieves of varied capacity and sex, who found in him an apt recruit. His chief pal was one Barney M'Guire, an Irishman, "a darling of a boy, and a most skilful pickpocket," who carried professional enthusiasm so far as to "do" even his own brother. Under this expert's eye David rapidly completed his education. In August 1817 he went with his mentor to make his début at Portobello races. A man in the crowd, who had been a successful backer, attracted his regard. "There were a good many old prigs keeping an eye on him, but I got the

first dive at his keek cloy [breeches' pocket], and was so eager on my prey, that I pulled out the pocket along with the money." Instantly the notes were passed to Barney, and when the victim laid hands on David, nothing was found upon him. The poor man apologised for his mistake, remarking that someone had picked his pocket. The incident cost him £11. After the races were over the pair, accompanied by Barney's young brother, set out by coach for Jedburgh, where they began a tour of the Borders. They spent their time attending the "fairs" (markets) held in the different towns at that season, with the following substantial results: St. James's fair, Kelso, £20; the Rood fair, Dumfries, £17; the inn at Lockerbie, £23; and Langholm fair, £201. The magnitude of the last haul calls for special notice. Among the good folk whose attention was engrossed by the cattle, our friends remarked "a conish cove [gentleman], with a great swell in his suck [breast pocket]." David took one side and Barney the other, while young M'Guire hovered in the rear. David turned back the left breast of the coat over the man's arm; Barney touched him on the right shoulder, saying, "Are these sheep yours, sir?" and young M'Guire "snib'd the lil [stole the pocket-book]," the several acts being simultaneous. The brothers then bolted with the "dumbie," David remaining in sympathetic converse with his victim.

"Picking the suck," he obligingly explains, "is sometimes a kittle job. If the coat is buttoned, it must be opened by slipping past. Then bring the lil down between the flap of the coat and the body, keeping your spare arm across your man's breast, and so slip it to a comrade; then abuse the fellow for jostling you." On the other hand, he observes that the keek cloy is easily picked: "If the notes are in the long fold, just tip them the forks [fore and middle fingers]; but if there is a purse or open money in the case, you must link it [turn out the pocket]." Thus does genius make light of its gifts.

Shortly after the division of the spoil, they saw one John Richardson, a sheriff-officer from Dumfries, who had encountered them in that town, so they hastened away in a post-chaise, leaving word with the landlord that they were off to Dumfries. Next day found them at Carlisle, where

they put up, as was their wont, at a good inn, taking their ease after the Langholm coup, and passing the time with cards, dice, and billiards, "besides a number of legerdemain tricks" to keep their hand in. Their luck had temporarily deserted them; an excursion to Cockermouth fair yielded only £3, and an unsuccessful assault with intent to rob "a conish cove who sported an elegant dross scout (gold watch), drag [chain], and chats [seals]," led to the police seizing their luggage and nearly capturing themselves. Having replenished their wardrobes at the expense of a confiding tailor, the party set forth by coach for Kendal. At that fair, "one of the finest horse-markets in England," Barney opened negotiations with a dealer of promising appearance on pretence of purchasing a horse. The man asked thirty-six guineas, Barney offered twenty-eight, and on his rising another guinea the seller, greatly to his discomfiture, closed the bargain. There was nothing to be done but pay the money. Later in the day, however, the misfortune was retrieved by disposing of the animal for £29, but "having lost five per cent. on the transaction." they more than restored the balance by robbing the purchaser of £43. At Morpeth fair, to which they next repaired, they fell in with a "school of prigs" on an outing from York, under the care of one Park, *alias* Boots. Twice, as these immature practitioners were essaying a pocket, did David's superior powers enable him to intervene and secure the prize, £15 and £17.

By December the pair (for from henceforth we hear no more of young M'Guire) were again in Newcastle, where they found it prudent to take private lodgings in the house of "a Mrs. Anderson in Castle Street," with whom they lived about a month. The lady had three daughters —"very pleasant girls"; and with this family they spent "a jolly Christmas." They passed for gentlemen travelling on pleasure, and would seem adequately to have sustained that rôle, as, sporting white-caped coats, top boots, and whips (!) they escorted the young ladies to theatres and public balls. But even amid such refining influences the Old Adam occasionally showed his hand, and other frequenters of these resorts suffered to the tune of some £70 by reason of his presence.

Perhaps none of our hero's performances has evoked

more indignation than his thus dragging into his narrative the names of these inoffensive folk, to whom, as we shall see, he admits being indebted for further hospitality in the future, and much has been written upon the peculiar baseness of his conduct in this regard. Yet, as appears from a letter of 8th August 1821 to the editor of the *Scotsman*, the fact that in all Newcastle there was then no such street as "Castle Street" inspires a hope that the ladies' name was equally apocryphal with that of their local habitation, and that the whole episode existed but in David's too exuberant fancy. The names, however, were suppressed in the second edition of the "Life," which looks as if they belonged to real persons.

In January 1818, having parted from their hostesses with mutual regret, the adventurers removed to Durham. A lonely house on the York Road tempted them to extend their practice; they broke in at a window, overpowered the inmates after a strong resistance, and left the richer by £30. In a day or two they were recognised, arrested, and committed to Durham Assizes, where, having in due course been tried for burglary, they were found guilty and sentenced to death. Our hero was soon engaged in contriving his escape, and after long conference with his fellow-prisoners a plan was resolved on with good hope of success. "We set to work upon the wall of our cell, and got out to the back passage, when the turnkey made his appearance. We seized him, took the dubs [keys], bound, and gagged him. Having gained the back-yard, we scaled the wall; but Barney and another prisoner fell after gaining the top. By this time the down [alarm] rose, and poor Barney and the other man were secured." David was not the lad to leave his benefactor in the lurch. The first use he made of his freedom was to obtain a "fiddlestick" (spring saw) at Newcastle. Returning to Durham with a Yorkshire acquaintance, they were pursued by two "bulkies" (constables), at whom he fired his pistol; one fell—"whether I have his murder to answer for, I cannot tell, but I fear my aim was *too true,* and the poor fellow looked dead enough"; the Yorkshireman accounted for the other. That night David climbed the back wall of the jail by means of a rope ladder, and conveyed the "fiddlestick" to the expectant Barney, who lost no time in

severing the iron bars of his cell window, when the friends were happily re-united. After a brief and unproductive tour in Berwickshire they reached Kelso, putting up at the Crown and Thistle. At the market Barney was caught redhanded by a burly farmer in a felonious attempt upon his " cloys." David rushed to the rescue of his pals, and " a terrible milvadering [combat] " ensued. But the farmer proved " very powerful "; a crowd gathered, and David was forced to flee, abandoning Barney to his fate, which took the form of three months in Jedburgh jail.

Deprived of Barney's friendly company and counsel, David, alone in the dismal February weather, found the colour of life sadly faded; his thoughts reverted to the bright eyes of the Misses Anderson, those " very pleasant girls," and soon his steps turned in the same direction. He was warmly welcomed, and remained with them till June. During his visit Miss Maria became the bride of a local shopkeeper; David himself led the nuptial festivities, and made, he tells us, " a very merry night of it." One evening as he was bringing Miss Euphemia home from the play, she was annoyed by the importunities of a belated reveller, who " mistook the lady for a girl of the town." David did all that, as a gentleman, he could in vindication of the damsel's honour, " and in doing so sunk into his keek cloy, and eased him of a skin [purse] containing nineteen quids of dross "—a superfluous touch, but the " skin " was too much for our Ethiopian. Though upon holiday, David engaged in one or two minor exploits, yielding " thirty-three quid screaves [notes], a dot drag, and two dross chats "; but he felt that he was wasting valuable time, so in June he " took leave of Mrs. Anderson and her worthy daughters, with sincere regret and sorrow at parting on both sides." " Never," he adds with creditable feeling, " will I forget the kindness, and even friendship, of these good people to me "; and, indeed, this domestic interlude remained one of his most agreeable memories. One regrets that he did not go a step further on the right road, and ranging himself, as the French have it, settle down blamelessly with the maiden for life. But that, perhaps, would have been hardly fair to Miss Euphemia.

David returned to Edinburgh, and after sojourning a space with one Train in the Grassmarket, removed to Mrs.

Wilson's, East Richmond Street. He was now associated with William Henry, a well-known "snib," and principally engaged upon "the hoys and coreing [shoplifting]," the "cribs" of Billy Cook in the Calton, and of John Johnston at Crosscauseway, affording ready receptacles for their "lays." One night in the High Street, opposite the Tron Church, he met George Bagrie and William Paterson, *alias* Old Hag, "two very willing but poor snibs, accompanying a lushy cove, and going to work in a very forkless manner." Perceiving their incompetence, David interposed his experienced hand, and the "smash" (silver) was presently "whackt" (shared) at a house in the South Bridge kept by a Miss Gray, who, it is to be feared, was "other than a gude ane." There David met an old apprentice of his father's, having a commission to look out for the lost sheep, and was by him persuaded to return home. Expressing penitence, he was welcomed after the manner of prodigals, and a severe illness for a month confined him to the straight path; but no sooner was he about again than he reverted to his old ways. Certain petty thefts of tobacco and butter led to his committal to the Calton Jail, from which he was released on 18th December upon his relatives finding caution for his appearance when required. He had lost the grand manner, and in company with two young ladies, "both completely flash, as well as game," preyed upon the shopkeepers of the New Town. More than once he was arrested on suspicion, but managed to evade justice. In January 1819, with the assistance of Mr. Bagrie, he stole two webs of cloth from a merchant in Musselburgh; this they hid at the Dumbiedykes, and from it David caused to be made "a greatcoat for a favourite girl of mine," named Mary Bell, who hailed from Ecclefechan. Personally, David seems to have cared nothing for the bravery of bright clothes which so appealed to the heart of Deacon Brodie; he describes himself as becoming very careless and shabby in his dress. Apprehended with this young lady on account of a brawl in a Calton eating-house, and brought before the Sheriff, he was thus addressed by his lordship: "Haggart, you are a great scoundrel, and the best thing I can do for you, to make you a good boy, is to send you to Bridewell for sixty days, bread and water, and solitary

confinement." A further charge of watch-snatching in the Candlemaker Row added another sixty days to his period of retirement. Released on 23rd July, he hung about Leith and Portobello, sleeping among the Figgate Whins, and doing nothing beyond "petty jobs."

In September he left Edinburgh for Perth fair, where he associated with sundry professional brothers, of whom one was called The Doctor. With these gentlemen he began a business tour in the north, visiting Dundee, Arbroath, and Aberdeen. In consequence of their operations at the races in the Granite City the gang was arrested; three were convicted of theft, David and The Doctor getting two months apiece "for being found among snibs." The magistrate observed that he was "sorry to see sae mony guid-looking lathies gaen on the way we war gaen"; to which David rudely retorted: "You auld sinner, it does not appear so, when you are sending innocent people to Bridewell." The bailie, who seems to have been a judge of character, replied: "Ye are the warst amang them a'; if I had kent ye better I wad hae gien ye a twalmonth!" The couple were released on 25th November, and set out for Edinburgh by such easy stages that the journey occupied a month, but their depredations *en route* call for no comment. At Edinburgh The Doctor bought a new hat in a shop on the North Bridge, David the while "forking" a silver snuff-box from the hatter's "benjy cloy." They then honourably paid for the hat and departed. On 25th December they broke into a house in York Place, "opposite the Chapel," where they secured some "wedge-feeders" (silver spoons). David furnishes a complete list of further burglaries committed by him in Edinburgh and Leith, none of which are of special interest. "I generally entered the houses," he says, "by forcing the small window above the outer doors. This was an invention of my own, but it is now common, and I mention it," he thoughtfully adds, "to put families on their guard."

On 1st March 1820, David, along with a lad named Willie Forrest, was apprehended by Captain Ross, of the Leith police, and one of his "bulkies," and after a violent resistance was taken, "streaming all over with blood," to the lock-up. After many examinations, which he describes as tedious, he was committed for trial. "But on the

evening of the 27th of March, having obtained a small file, I set to work and cut the darbies off my legs. I then, with the assistance of the irons, forced my cell door, and got into a passage. I then set to work upon a very thick stone wall, through which I made a hole, and got into the staircase just when twelve struck." The outer wall, however, proved too strong for him, so he unbarred the door of the debtor's room and liberated his friend Forrest to assist in the work. Their joint efforts were successful in removing a large stone, and by 5 A.M. David had regained his freedom. Through Leith Links and past Lochend they ran to Dalkeith without stopping, and only remaining long enough in that town to steal twelve yards of superfine blue cloth, left for Kelso. From thence, covering, for David, familiar ground, they reached Dumfries, where our hero was delighted to meet again his old pal Barney M'Guire, whom he had not seen for over a year. It is apparent from his narrative that to his association with that master mind is due the marked superiority of his earlier offences, for since his association with Barney ceased in 1818, we must admit a regrettable falling off in quality and style. With Barney, then, he started for Carlisle, in good hope of rising to the old level of achievement; but, alas! no sooner had they reached that town than Barney was "pulled" by John Richardson, the sheriff-officer, and David was once more bereft of his support. Poor Barney went to Botany Bay for fourteen years. "He was a choice spirit and a good friend," says David, regretfully; "I had no thought and sorrow till I lost Barney."

Haggart and Forrest were retaken next day, brought back to Edinburgh, and committed for trial at the High Court on 12th July. Charged with eleven specific acts of theft, two of reset, one of housebreaking, and one of prison-breaking, the pannels pleaded guilty to the whole charges except reset; evidence was led, and the jury found them guilty of theft, generally, but the housebreaking charge not proven. This verdict was objected to by the defence as inapplicable to the libel, and the Court ordered informations. Before the hearing, however, Haggart had escaped; and on 5th April 1821, the Court, after awarding sentence of outlawry against him, repelled the objections

stated in arrest of judgment (*Decisions of the Court of Justiciary*, 1819-31, No. 10).

Meanwhile, in Dumfries jail, to which he was restored, our hero made acquaintance with two other prisoners, a boy Dunbar, who had just got seven years, and a man M'Grory, then under sentence of death. With them he formed a plan to overpower and gag the turnkey, Thomas Morrin, in the absence of the head jailer, secure his "dubs" (keys), and make their escape. A stone, obtained from another prisoner, was tied in a piece of blanket for use as a weapon. The morning of Tuesday, 10th October, was fixed for the attempt. They were put as usual into the Cage, an "open-railed place, one storey up in the side of the jail, where the prisoners go for fresh air." There they found one Simpson, who, although he was to be discharged the next day, agreed to share their enterprise. Unfortunately, two ministers called for the condemned man, and M'Grory was locked into his cell with them. The others cut through their irons with an improvised file, and David concealed himself in a closet at the head of the stair. Dunbar then called Morrin to come up and let out the ministers. David thus describes what followed: —

He came up the stair accordingly with a plate of potatoe-soup for M'Grory. When he got to the top, he shut the cage door. I then came out upon him from the closet, and the pushing open of the door knocked the plate out of his hand. I struck him one blow with the stone, dashed him downstairs, and without the loss of a moment, pulled the dub of the outer jiger [door] from his suck. I gave only one blow with the stone, and immediately threw it down. Dunbar picked it up, but I think no more blows were given, so that Morrin must have received his other wounds in falling. I observed Dunbar on the top of him, riffling his breast for the key, I suppose, which I had got. Simpson had a hold of Morrin's shoulders, and was beating his back upon the steps of the stair. I rushed past them, crossed the yard as steadily as I could, pulled the dub from my cloy, where I had concealed it, and opened the outer jiger. It was sworn upon my patter [trial] that I had the dub in my fam [hand] when I passed through the yard, but this neither is, nor could be true, for it would have let all the debtors see what I was about. Besides, I well remember that upon getting to the top of the outer stair, I sunk into my cloys with both fams, not being sure, in my hurry, into which

of them I had put the key. Some of the witnesses, on my trial, also said that I was bareheaded at this time, but this was not the case, for I had Dunbar's toper upon me.

He gives an exciting account of his escape from the town, and his ingenuity in baffling his pursuers, headed by John Richardson. As he lay next day hidden in a haystack he heard a woman ask a boy, "If that lad was taken that had broken out of Dumfries Jail." The boy answered, "No, but the jailer died last night at ten o'clock." So now David knew that henceforth he was sealed of the tribe of Cain. When the coast was clear he left his lair, and changing clothes with a scarecrow in an adjacent field, "marched on in the dress of a potatoe-bogle." That night, concealed in a hayloft, he heard the farm lads discussing his prowess: "He maun be a terrible fallow," said one. "Ou, he's the awfu'st chield ever was," said the other; "he has broken a' the jails in Scotland but Dumfries, and he's broken hit at last." Thus even in his own time was David privileged to behold the genesis of the Haggart myth. At Carlisle he found refuge with a lady friend who furnished him with "blone's twigs" (girl's clothes), in which, travelling only by night, he reached Newcastle, where he again changed his dress. "Blowen," I am given to understand, is the spelling preferred by purists. On this occasion he had the decency to avoid the Andersons; but one day he passed in the street another old friend, John Richardson, a *rencontre* which caused his return to Edinburgh. In the coach he made acquaintance with a Mr. Wiper, who invited him as his guest to the Lord Duncan Tavern in the Canongate.

It is interesting to note that before they parted company the friends spent a pleasant evening at "Mrs. M'Kinnon's, on the South Bridge," a name memorable in the annals of Edinburgh crime. Of this lady, who followed David to the scaffold within two years, there would be something to say were the subject less infragrant.

After a brief stay at Jock's Lodge, the fugitive crossed the Firth in a Fisherrow boat, and was landed at Cellardyke. In sailor's clothes he wandered about Fife, replenishing his purse by sundry successful thefts; but Edinburgh, "where danger was most to be dreaded," drew him back: he took

ship for Newhaven and re-entered the capital. The first thing that met his eye was a police bill, offering a reward of seventy guineas for his apprehension; so he turned again to the North, and falling in with James Edgy, a well-known Irish "snib," began a course of robbery in the Highlands which proved almost as productive as the old days with Barney. Concluding their tour in Glasgow, Edgy embarked on board the *Rob Roy* steamboat at the Broomielaw, and David joined the vessel at Erskine Ferry, *en voyage* for Ireland. At Lamlash Bay, in Arran, they put in to land a passenger, Provost Fergus of Kircaldy, who had recognised our hero, and afterwards communicated the fact to the police. Of this, however, David had no suspicion at the time, otherwise, as the Provost went ashore "in a black night," he could "easily have put him under the wave." They reached Belfast on 30th November 1820.

With Haggart's Irish experiences I have no space to deal, but must hasten on to the catastrophe. He realised a profit of upwards £230, and in the course of his adventures again broke prison at Drumore. Caught stealing notes from a pig drover at Clough fair, and committed to Down-patrick Jail, he was tried on 29th March 1821, convicted of felony, and sentenced "to lag for seven stretch." He inveighs bitterly against Irish "justice." Removed to Kilmainham Jail, David at once set about organising an escape, but the plan, betrayed to the authorities, mis-carried, and all he got for his trouble was "a bat with a shillela" on the right eyebrow, the mark of which he carried to his grave—no long journey. Presently there arrived on the scene his old enemy John Richardson, who, inspecting the prisoners in companies of twenty, quickly spotted his man. David's denial of his identity was of no avail, and after the necessary formalities he was taken back to Scotland.

He records, in capitals and with much complacency, how on the night the coach arrived at Dumfries it was met by thousands of people with torches, "all crowding for a sight of HAGGART THE MURDERER." As, heavily ironed, he entered the prison, he passed over the spot where, six months before, he had struck the fatal blow—"Oh, it was like fire under my feet!" Examined by the Sheriff, he

refused, he says, to answer any questions, and in due course was transferred to Edinburgh for trial. His comment upon the evidence of the Crown witnesses is brief: "I was fully as wicked as they made me"; but he still maintained that he never meant to kill the turnkey. Convicted and sentenced to death, he took comfort in the reflection that one born to be hanged cannot be drowned.

Leaving David's veracious history, we find the fullest reports of his trial at Edinburgh on 11th June 1821 in the *Edinburgh Weekly Journal* (13th June), and the *Courant* (14th June). An abridged account is given in the *Scotsman* (16th June). The Lord Justice-Clerk (Boyle) presided, the Solicitor-General (Wedderburn), J. A. Maconochie, and John Hope appeared for the Crown; Henry Cockburn and Thomas Maitland, for the defence. The pannel, charged with the murder of Thomas Morrin by giving him several severe blows on the head with a stone, which fractured his skull, having pleaded not guilty, and no objections being taken to the relevancy, the prosecutor adduced his proof. It was proved by the surgeons who attended Morrin during life, and made the post-mortem examination, that deceased had received five wounds on the left side of his head, one of which, above the eye, was two inches long, and penetrated to the bone; that death was due to fracture of the skull; and that the injuries might have been inflicted with the stone produced. Several witnesses swore that Morrin before he died stated that "David Haggart had done it." The principal witness for the Crown was John Simpson, of whom we have already heard. He gave substantially the same account of the affair as David, except that he denied having himself laid hands on the deceased. He saw Morrin attacked either by Haggart or Dunbar, but could not say which of them struck the blows, "being in a puzzle." Vainly did Mr. Hope endeavour to get the witness up to his precognition. Simpson, though he admitted seeing the deed done, swore that he knew not who did it; whereupon Hope moved the Court to commit him for prevarication. The judge, however, while describing his evidence as "unsatisfactory," would not go that length.

In the ballad which he composed after his conviction, "just to show that my spirit could not be conquered," David had a dig at Simpson—

My life by perjury was sworn away,
I'll say that to my dying day.
Oh, treacherous S——, you did me betray,
For all I wanted was liberty.

No witnesses were called for the defence. The Solicitor-General, in addressing the jury, pointed out that it was not necessary to prove that the mortal blows were given by the prisoner at the bar. It was sufficient to prove that he was concerned in the crime. The deceased had told several persons that "David Haggart had done it," and there was no one else in that part of the jail but Haggart, Dunbar, and Simpson. The latter had obviously not told all he knew, but what had been wrung from him was of greater importance. On the whole case there could be no doubt of the prisoner's guilt. Cockburn, for the defence, in a speech reckoned "ingenious," took the line that the murder was committed by Dunbar, who, curiously enough, had been sent to transportation before the trial at which his evidence must have been most material. No weight attached to what Morrin said before he died, as he was not then in a state to give any reliable testimony. It was an extraordinary circumstance that the prosecutor should move to have his chief witness committed for prevarication, and yet maintain that so far as it went his evidence was good. He asked for a verdict of not proven. The Justice-Clerk having summed up, the jury, "without retiring or hesitation," unanimously found the prisoner guilty, and the Court sentenced him to be hanged on 18th July, his body to be given to Dr. Alexander Monro for dissection. Such was then the ultimate fate of the condemned.

The trial, we read, "occasioned great anxiety, the Court and avenues leading to it being crowded throughout the day." The prisoner, who is described as "prepossessing," preserved the greatest composure during the proceedings, and heard his sentence unmoved. This was duly carried out on the appointed day, "at the usual place of execution, head of Libberton's Wynd," in presence of an immense and sympathetic crowd. David, "decently dressed in black," met his doom with "calm serenity," and on the steps of the scaffold, "turning to the multitude, he

earnestly conjured them to avoid the heinous crime of disobedience to parents, inattention to Holy Scriptures, of being idle and disorderly, and especially of Sabbath-breaking, which, he said, had led him to that fatal end."

The efficacy of this exhortation must have been somewhat weakened by the publication, a few days later, of the famous "Life," advertised as containing "an Account of his Robberies, Burglaries, Murders, Trials, Escapes, and other remarkable Adventures." price 4s., and written rather too racily for edification. The editor, George Robertson, W.S., explains that his task was undertaken with great reluctance, but having acted as agent for the pannel he did not think himself justified in refusing a request so anxiously pressed upon him. He excuses the levity of his author's tone on the ground that it was impossible for the unfortunate youth faithfully to record the thoughts and actions of his past life in other than his familiar language—which seems to imply his own belief in the verity of the narrative. The proceeds of the sale were to be devoted to David's aged parent and to charity. I find, on research, that Mr. Robertson was admitted a member of the Society in 1819; he acted as Sheriff-Substitute at Portree from 1829 to 1844, and died in the latter year at the age of fifty-one. In the fad of George Combe, W.S., who furnished the phrenological appendix, David found an unexpected means of further self-advertisement. Judged by his "bumps" he proved as bold a blade as he could desire. On one point, however, he gave the expert a bad fall: Mr. Combe held him indifferent to the attractions of the sex; the warmth of David's repudiation in his "Remarks" upon this article must have been, for him, painful reading. His further observations on the cerebal development of our hero and of Mrs. M'Kinnon are published in the *Transactions of the Phrenological Society* (Edinburgh, 1824). The philosopher makes a comparative analysis of the characters of his two involuntary subjects, deduced by him from their "bumps," and illustrated by certain grim engravings of their respective heads, as shaved to facilitate the application of his art after the owners had no further use for them.

Combe married a daughter of Mrs. Siddons. Before doing so he examined her head, and consulted Spurzheim.

Luckily her anterior lobe was ascertained to be large; and as the lady had a fortune of £15,000 and was six years his junior, the scientist risked the step, with, it is recorded, the happiest results.

The "Life" was reviewed in the *Scotsman* (28th July) and in the *Scots Magazine* (August 1821); the former objected to its publication on moral grounds, but the latter expressed strong doubts not only of its propriety but of the author's good faith. It appeared, "from certain documents," that David's adventures in England were "about as authentic as the travels of Munchausen." On 18th August was published at 1s. *Animadversions and Reflections* upon the "Life," described in the advertisements as "an Antidote to a Book calculated to contaminate Society," which sufficiently indicates its purport. The anonymous author deals with David very solemnly, and the effect is depressing. A list of thefts of money alone, compiled from the "Life," brings out a balance in his favour of £912 on the four years' trading.

The veil was finally withdrawn by Henry Cockburn, who both in his *Journal* and *Circuit Journeys* gave, after many days, his reminiscences of his strange client. "He was young, good-looking, gay, and amiable to the eye," says his lordship, "but there was never a riper scoundrel —a most perfect and inveterate miscreant in all the darker walks of crime." A presentation copy of the book, containing "a drawing of himself in the condemned cell, by his own hand, with a set of verses, his own composition," was all Cockburn got for his exertions at the trial. "The confessions and the whole book," he states, "were a tissue of absolute lies—not of mistakes, exaggerations, or fancies, but of sheer and intended lies. And they all had one object: to make him appear a greater villain than he really was." But this, as we have seen, is too sweeping a charge; and where I have been able to check the hero's statements, as in the matter of his two trials at Edinburgh, I have found them borne out by the facts.

David wanted to die a great man, at the head of the profession of crime—Scotland's Jack Sheppard. A strange pride, Cockburn thinks. Robert Louis Stevenson, however, has noted that the ground of a man's joy is often hard to hit, but he adds that to miss the joy is to miss all. "In

the joy of the actors lies the sense of any action. That is the explanation, that is the excuse." And that, for example, is the true key without which the false " dubs " of Deacon Brodie are insignificant as the Lantern-Bearers' hidden light. Let it serve for the epitaph of David Haggart.

Note.—" Mrs M'Kinnon."

Years after I had done with David Haggart, I was moved to commemorate this lost lady of old years in " The Strange Woman " (*Glengarry's Way and Other Studies,* Edinburgh: 1922). Mary M'Kinnon kept what she euphemistically called " a licensed tavern "—there is a briefer and more accurate term—at No. 82 South Bridge, Edinburgh. In 1823 she was tried for and convicted of the murder, with a table knife, of one of her clients. The case has certain remarkable features justifying narration. Still later, on the happy acquisition of a portrait by Charles Kirkpatrick Sharpe, drawn from life in the Calton Jail, I ventured to write a playlet on the subject: " Mrs M'Kinnon At Home " (*Rogues Walk Here,* London: 1934).

MACKCOULL AND THE BEGBIE MYSTERY

Here is the tale of Begbie, the bank-porter, stricken to the heart at a blow, and left in his blood within a step or two of the crowded High Street.

—*Edinburgh: Picturesque Notes.*

All great cities have their mysteries, their unread riddles of crime, which alternately invite and baffle the ingenious investigator. Edinburgh, despite her relative respectability, is no less rich in such criminous conundrums than are her Scottish sisters. If pride of place in this connection belongs properly to Perth as the scene of the inimitable puzzle known to us as the Gowrie Conspiracy, Edinburgh is a good second with the enigma of Darnley's death in the tragedy of Kirk o' Field. Glasgow, too, can boast her meritorious specimens, though the protagonists are neither of such high degree nor so historically important. Many have set forth to tackle, in Mr. Willet's word, the attaching mysteries respectively associated with Blythswood Square, with Sandyford Place, with Queen's Terrace, and after much healthful exercise of their wits have returned from those excursions no wiser than they went. On this lower plane of Art, to adopt De Quincey's nomenclature, Edinburgh can also show some notable examples, one of which I propose here briefly to examine. The fact that the problem is unsolved and insoluble may induce the reflective reader to protest, in adaptation of Burns' familiar lines:

I doubt it's hardly worth the while
To be sae nice wi'—Begbie.

But as one of Edinburgh's standard mysteries, noted as such both by Sir Walter Scott and by Robert Louis Stevenson, the fate of the hapless porter is still a matter of legitimate interest and the circumstances attendant upon his taking-off ought not to be forgotten.

At the famous Theatrical Fund Dinner in Edinburgh

on 23rd February 1827, when the identity of "The Great Unknown" was first publicly revealed, and the authorship of the *Waverley Novels* ceased to be a pseudo-mystery, Sir Walter sent to Patrick Robertson, *alias* "Peter of the Paunch," the Falstaff of the Scots Bar, a slip of paper having written thereon: "Confess something too; why not the murder of Begbie?" The humour of Scott's suggestion was much relished at the time, but the modern reader of the anecdote in Lockhart's pages may possibly miss the point. The matter of the witticism was then but twenty years old, and the passage of a century has obscured the reference. That same February, by the way, De Quincey's famous paper, *On Murder, Considered as One of the Fine Arts,* in which the artistry of this crime is cordially commended, had appeared in *Blackwood.*

As you go down the High Street towards the Canongate and reach the Nether Bow, you have upon the left the apocryphal manse of that very real divine, the Reverend John Knox. A little farther east, on the other side of the way, a gloomy pend or close-mouth leads to Tweeddale Court. If you enter this uninviting archway—as I trust a perusal of these pages may induce you to do—you will find yourself in a short, straight passage, so narrow that you can touch both sides with outstretched hands, conducting to an inconsiderable square. Near the inner end of this alley, on the right or west side, a very dark turnpike-stair gives access to the flats of the superior tenement. Anyone standing within this caverned stairway would be hidden from a person approaching the courtyard from the street, and could, if so disposed, pounce suddenly upon him as he passed. Facing you, across the court, is a venerable fabric, now occupied by Messrs. Oliver & Boyd, the well-known publishers. This "great lodging," built by the Lady Yester who founded a church with which her name is still piously associated, was of old the town mansion of the noble family of Tweeddale. After the Union, however, when Auld Reikie was no more deemed worthy to number peers among her populace, the Scottish nobility removed to London. Defoe, in his *Tour,* notices the place as one of Edinburgh's princely dwellings, "with a plantation of lime trees behind it"; and its spacious and terraced gardens extended even unto the Cowgate, as may

be seen in Edgar's plan of 1742. In later years an Episcopal chapel and other buildings encroached upon the site, which has long lost its sylvan qualities, and the lime trees have given place to stone and lime. Early in the following century Tweeddale House, after suffering divers vicissitudes, passed into the possession of the British Linen Company, and became the head office of its bank.

At five o'clock on the afternoon of Thursday, 13th November 1806, a tenant of one of the houses in the tenement over Tweeddale Court was making ready for tea. In those primitive times Edinburgh matrons obtained water for household purposes from the nearest of the public wells in the High Street, several of which yet remain to testify to the homely habits of our forebears. So a little girl was sent to fill the evening kettle at the neighbouring common fountain across the street. Down the dark stair leading to the close, darker than ever in the November dusk, the child sped upon her errand, and, reaching the bottom step, stumbled over the prostrate body of a man, then in the article of dissolution. An alarm was raised; lights were brought; a crowd quickly gathered, for at that hour of the day the adjacent High Street was full of passengers; but the man was already dead, struck to the heart by a single savage stab from the knife still driven up to the hilt in the fatal wound. Round the haft was wrapped a pad of soft paper, apparently to protect the assassin's person from contact with the scattering blood. A soldier of the City Guard was actually on sentry duty at the time within a few yards of the spot. Naturally, he saw and heard nothing. The victim was speedily identified as William Begbie, a porter in the employment of the British Linen Company at Leith, whose duty it was at regular seasons to convey money from that branch to the head office of the bank in Tweeddale Court. He had been robbed and murdered with incredible swiftness within a few paces of the busy thoroughfare, and the murderer, plunging into the human stream, had vanished without a trace. The following particulars of the crime were at once circulated in the form of handbills and published in all the Edinburgh newspapers: —

HUE AND CRY.

At five o'clock this evening, William Begbie, Porter to the British Linen Company at Leith, was stabbed and murdered in Tweeddale's Close, leading to the British Linen Company's Office at Edinburgh, and robbed of a sealed parcel, in a yellow canvas bag, containing the following particulars, viz. £1300 of Sir William Forbes and Co.'s Notes of £20 each; £1000 in Notes of Leith Banking Company of £20 each; £1400 in Notes of different Banks of £20, £10, and £5; 240 Guinea Notes of different Banks; 440 Twenty Shilling Notes of different Banks. In all £4392.

As the weapon with which the murder was committed was found upon the spot, it is requested that any person who may have sold a common bread knife, with a wooden handle stained of a red colour, will immediately give information as aftermentioned.

Whoever will, within three months from this date, give such information to the Manager for the British Linen Company, the Magistrates of Edinburgh, the Sheriff of the County of Edinburgh, or the Judge of Police, as shall be the means of discovering the Person or Persons who committed the aforesaid murder and robbery. shall receive a reward of

FIVE HUNDRED GUINEAS,

to be paid upon conviction of the offender or offenders. And in case any one of the Associates shall make the discovery, His Majesty's pardon will also be applied for in his favour.

N.B.—It is intreated that bankers, merchants, and others will take notice of all Notes of the above descriptions which may happen to be presented to them, especially if by persons of suspicious appearance.

William Begbie was seen walking up Leith Walk between four and five o'clock, in company with a man. This person, and any other that saw him, will please to call as above, and give information.

EDINBURGH, *Nov.* 13*th*, 1806.

The *Edinburgh Evening Courant* of 15th November, in commenting on the crime, remarked: "Immediately on the discovery, the most prompt and decisive steps were taken to trace the perpetrator or perpetrators of this atrocious act. Every house of a suspicious character was

strictly searched; parties were dispatched to the roads which lead out of the city in different directions. Several persons were taken up, but still no information has been procured which can give any distinct clue that is likely to lead to a discovery. The murder was committed with a force and dexterity more resembling that of a foreign assassin than an inhabitant of this country. The blow was directly in the heart, and the unfortunate man bled to death in a few minutes. He has left a widow and four children. From the anxiety expressed by all ranks for the discovery of the murderer, we have strong hopes that in our next paper we shall have to announce that wished-for event." On the 17th, however, all that the *Courant* was able to say was, "We regret to mention that, nothwithstanding the most active search, no positive information has yet been received from which there is any certainty of leading to a discovery of the murderer of William Begbie."

The authorities had done their best. The "Hue and Cry" bills, printed on the very night of the crime, were distributed throughout the country by the morning mail-coaches. The same day a meeting of Edinburgh bankers decided that all their notes should be specially marked, so that the stolen ones might the more readily be identified, and the provincial banks forthwith followed suit. On one of the missing notes, as we learn from a letter of Sir Walter Scott to Lady Louisa Stuart, a lad had written some lines of a playhouse song, which it was hoped would be the means of throwing light upon the mystery. Whether or not this note ever came into circulation is unrecorded, but when Sir Walter wrote—April 1813—it had not yet appeared. "The knife was a remarkable one," writes Sir Walter, "such as bread is sliced with, having a wooden handle; the blade was short, broad, and keenly tempered; it had the shop mark of the person who sold it, and the shop grease was still upon it, so that it had never been used but for the fatal purpose. It had been prepared for the deed by grinding the extremity to a sharp point and double edge." This knife was ascertained to have been bought, in its unimproved state, by an unknown man on the afternoon of the crime. The murderer was actually seen by some children to run out of the close across the High Street and disappear down Leith Wynd. A gentle-

man returning from Edinburgh to his home in Leith that afternoon met Begbie, whom he knew by sight, going up Leith Walk towards the city. He noticed " a mean-dressed man, like a porter, on his [Begbie's] one side, who appeared to be walking with him." This was the man mentioned in the " Hue and Cry," but he failed to accept the authorities' invitation.

Among the persons arrested on suspicion and examined by the Hon. Baron Clerk Rattray, then Sheriff of Edinburgh, who, we are told, displayed the greatest zeal and exertion possible to discover the murderer, was one John Hogg, the Perth carrier. John had a bad name with the police, but despite the proverb, that was not equivalent to hanging him. He had been seen in the Canongate shortly after the murder, and would give no account of how he had spent his time that evening; so he was kept in custody until it otherwise appeared that though his business had been sufficiently nefarious—its disclosure would have subjected him to capital punishment—it had nothing to do with the murder. Thus Hogg saved his bacon, and darkness descended again upon the Begbie Mystery.

In the absence of any further news the affair began to be forgotten; but on Friday, 14th August 1807, the *Edinburgh Advertiser* returned to the subject: " No event has occurred for many years in Edinburgh which more deeply interested the inhabitants at the time than the murder and robbery of the unfortunate Begbie in November last. The prompt and dreadful dexterity with which the act was perpetrated, the almost immediate discovery of the dead body, and the escape of the murderer through a street crowded with people, before it was dark, form together a combination of circumstances unprecedented. Nine months have now elapsed since the crime was committed; after the strictest search no clue has been found that could lead to detection. On Saturday last, a journeyman mason, in company with two other men, in passing through the grounds of Bellevue, between the Custom-house and Broughton Toll, found at the side of a wall a parcel containing a quantity of bank notes, which on examination proved to be those of which Begbie was robbed. The persons who found the notes carried them to the Sheriff's office. They appear to be large notes only, but

from the damage many of them have sustained by the long exposure the exact sum is not ascertained. It is said to be above £3000 in large notes; the small notes, it is said, are not in the parcel." On 3rd September the *Courant* had the satisfaction to report: "The British Linen Company, with a liberality that does them great honour, have made a present of two hundred pounds to the three men (two of whom are masons and one of them a gardener) who lately found the money at Bellevue of which William Begbie was robbed when he was murdered." No doubt the bank made equally generous provision for the widow and children of their unlucky messenger.

The house of Bellevue occupied the site of the present gardens of Drummond Place, and the grounds included nearly all the land between York Place and Canonmills. "The whole place waved with wood," writes Henry Cockburn in his *Memorials*. "Nothing, certainly within a town, could be more delightful than the sea of the Bellevue foliage gilded by the evening sun, or the tumult of blackbirds and thrushes in the blue of a summer morning." But, alas! in 1802 Bellevue became a prey to the City Fathers, who, falling with philistine fury upon its groves and glades, transformed the fair demesne into a stony wilderness.

Maidment, in a note to *Kay's Portraits,* makes the following curious statement regarding the finding of the notes:—"For more than three weeks previous," he writes, "it was rumoured everywhere that they had been found in the grounds of Bellevue. This report must have been circulated for the purpose of leading to their discovery. It is rather curious that the person who found them—a mason—resided at the very place where the murder was committed. He had no difficulty in proving, however, that he was not in Edinburgh at the time." Nothing could be found out as to who had hidden the notes; the affair but assumed a deeper shade of gloom, and the Begbie business became a synonym for mystery.

Thirteen years later a fresh and unexpected light was shed upon the matter. On 22nd December 1820 there died in the county jail of Edinburgh a notorious malefactor named James Mackcoull, *alias* Captain Moffat, who had been sentenced to death for robbing the Glasgow

branch of the Paisley Union Bank of £20,000. This miscreant, of whose career I shall presently have something to say, was shrewdly suspected of the murder of Begbie. Denovan, the Bow Street runner, who then superintended the Leith police, had been charged with the agreeable task of investigating the prisoner's Cimmerian past, and his memoranda were embodied in a memoir of Mackcoull, afterwards published. He already had some acquaintance with his subject, having seen him in the autumn of 1805 at the Ship Tavern in Leith, and other places in the neighbourhood, during the year before the murder. "I met him often," says Denovan, "on Leith Quay, on Leith Walk, and the Easter Road leading from Leith to Edinburgh. He was sometimes wrapped in a brown surtout and Belcher handkerchief, with what is termed by flashmen a 'penthouse nab' or full-brimmed hat, somewhat slouched and rather shabby; at other times he was dressed in a black coat and vest, drab cloth or thickset breeches, white worsted stockings, sometimes shoes and sometimes half-boots, a full-brimmed hat and white neckcloth, and appeared rather genteel. Although I had not at the time the most distant suspicion of Mackcoull, yet I recollect distinctly that he disappeared immediately after the murder." Mackcoull was a man of many interests, and his time in Edinburgh was fully occupied in thieving, pocket-picking, resetting stolen goods, and passing stolen bank-notes. In a house at the foot of New Street in the Canongate, within easy reach of Tweeddale Court, he lived in gentlemanly retirement, sallying forth every afternoon to Leith by Easter Road, and returning to his lodging by the Walk in the dusk of the evening. Denovan thinks that he was then planning a robbery of one of the Leith banks, but that his observations of Begbie's daily journey to the city suggested a less laborious mode of transferring to himself a portion of the Company's funds.

In the course of his later researches Denovan succeeded in unearthing one who actually saw the murderer before and after the deed. This man had been a sailor, but when discovered by Denovan was a schoolmaster in Leith, enjoying a high reputation for industry and worth. He told the following tale:—

I was at that time (November 1806) a boy of fourteen years of age. The vessel to which I belonged had made a voyage to Lisbon, and was then lying in Leith harbour. I had brought a small present from Portugal for my mother and sister, who resided in the Netherbow, Edinburgh, immediately opposite to Tweeddale's Close, leading to the British Linen Company's Bank. I left the vessel late in the afternoon, and as the articles I had brought were contraband I put them under my jacket, and was proceeding up Leith Walk, when I perceived a tall man, carrying a yellow-coloured parcel under his arm, and a genteel man, dressed in a black coat, dogging him. I was a little afraid; I conceived the man who carried the parcel to be a smuggler, and the gentleman who followed him to be a Custom-House or Excise officer. In dogging the man the supposed officer went from one side of the Walk to the other, as if afraid of being noticed, but still kept about the same distance behind him. I was afraid of losing what I carried and shortened sail a little, keeping my eyes fixed on the person I supposed to be an officer all the way up the Walk until I came to the head of Leith Street, when I saw the smuggler take the North Bridge and the Custom-house officer go in front of the Register Office; here he looked round him, and imagining he was looking for me I hove-to and watched him. He then looked up the North Bridge and, as I conceive, followed the smuggler, for he went the same way. I stood a minute or two where I was and then went forward, walking slowly up the North Bridge. I did not, however, see either of the men before me; and when I came to the south end or head of the Bridge, supposing that they might have gone up the High Street or along the South Bridge, I turned to the left and reached the Netherbow without again seeing either the smuggler or the officer. Just, however, as I came opposite to Tweeddale's Close I saw the Custom-house officer come running out of it with something under his coat; I think he ran down the street. Being much alarmed, and supposing that the officer had also seen me and knew what I carried, I deposited my little present in my mother's with all possible speed, and made the best of my way to Leith, without hearing anything of the murder of Begbie until next day. On coming on board the vessel I told the mate what a narrow escape I conceived I had made; he seemed somewhat alarmed, having probably like myself smuggled some trifling article from Portugal, and told me in a peremptory tone that I should not go ashore again without first acquainting him. I certainly heard of the murder before we left Leith, and concluded that the man I saw was the murderer; but the idea of waiting

on a magistrate and communicating what I had seen never struck me. We sailed a few days thereafter from Leith, and the vessel to which I belonged having been captured by a privateer, I was carried to a French prison and only regained my liberty at the last peace. I cannot now recollect distinctly the figure of the man I saw; but he was well dressed, had a genteel appearance, and wore a black coat. I never saw his face properly, for he was before me the whole way up the Walk; I think, however, that he was a stout, big man, but not so tall as the man I then conceived to be a smuggler.

From his official description in the books of the prison authorities, taken in 1810, it appears that James Mackcoull, then aged 45, was 5 feet 7½ inches in height, stout made, round visaged, red about the eyes and nose, his complexion fresh, his eyes dark, large and sharp, his hair black, and quite bald on the crown. Begbie's height was 5 feet 10 or 11 inches. There can, of course, be no doubt that the supposed officer was the murderer, and in Denovan's judgment there is as little that Mackcoull was the man. The truth of the sailor-dominie's tale was afterwards, he assures us, fully ascertained; but even had his evidence been available at the time, as Mackcoull was then unknown to the Edinburgh police and had left the city immediately after the murder, it is unlikely that it would have led to his being suspected.

In the autumn of 1807 Denovan saw Mackcoull again in Edinburgh, where he had been living for some time before they met. He remarked that he had just returned from a voyage to the West Indies—a figure of speech, as Denovan learned later, invariably employed by Mackcoull to account for his periodic disappearances after the commission of a crime. He then occupied "genteel lodgings" in Rose Street, was much better dressed than formerly, and frequented theatres, the gaming-tables, and "select parties of young gentlemen of fortune." The Ship Tavern knew him no more, for his interest in Leith had manifestly waned, and he confined his operations to the capital. He claimed to have invented a new process for staining leather, and exhibited to confiding visitors certain mysterious tubs, which, though capable of absorbing the subscriptions of his dupes, failed unaccountably to produce any return in profits. He coloured, however, his

professional pursuits by purchasing the material of his art from a skinner at Canonmills, often going thither too, as he mentioned, merely for the sake of taking the air. "His walk from Mid-Rose Street to the skinner's," says Denovan, was through Bellevue grounds, and by a kind of footpath which led along the dyke or wall where the notes were found, to the head of the loch at Canonmills." It was generally known that the bank had put a certain mark on all their large notes, and in Denovan's opinion Mackcoull was afraid to deal with those, so, with a view to deepening the mystery, he placed them where they would readily be found. The notes were seen lying openly in a hole in the wall—a position which could hardly have been chosen either for concealment or security. No sooner was the discovery made than Mackcoull's affection for Canonmills cooled, and he exchanged the genteel air of Rose Street for an obscure lodging at Newington, on the south side of the city, with the object, as he alleged, of benefiting his health. It is known that after robbing the Paisley Union Bank in 1811 Mackcoull hid a portion of the stolen notes in a field near St. Pancras Church, London. The coincidence is instructive.

While Mackcoull lay under sentence of death in Edinburgh jail in 1820, Denovan, who had recently completed his researches amid the purlieus of the culprit's past, sought an interview with the condemned man. He told the Governor that he wanted to ask Mackcoull in his presence a single question relative to the Begbie murder, and requested his close attention to the result. After some general conversation calculated to put the prisoner off his guard, Denovan opened fire. "'By the way, Mackcoull,' said he, 'if I am correct, you resided at the foot of New Street, Canongate, in November 1806, did you not?' He stared; he rolled his eyes; and, as if falling into a convulsion, threw himself back upon his bed. In this position he continued for a few moments, when, as if recollecting himself, he started up, exclaiming wildly, 'No, by ——! I was then in the East Indies—in the West Indies. What do you mean?' 'I mean no harm, Mackcoull,' replied Denovan; 'I merely asked the question for my own curiosity; for I think when you left those lodgings you went to Dublin—is it not so?' 'Yes, yes, I went to

Dublin," he replied, 'and I wish I had remained there still. I won £10,000 there at the tables and never knew what it was to want cash, although you wished the folks here to believe that they locked me up in Old Start [Newgate], and brought down your friend Adkins to swear he saw me there—this was more than your duty.' He now seemed to rave and lose all temper, and his visitor bade him good-night and left him."

Denovan disposes at some length of the claims of two contemporaneous rascals, respectively credited in popular belief with the murder of Begbie. Both were desperadoes well known to the police, and seem to have been severally in Edinburgh about that date. Bill Thorpe, *alias* Red Will, convicted in 1803 at Warwick Assizes of attempted murder and robbery, had been relegated to the Hulks for life, but escaping, fled to Edinburgh, where he lived in retirement at Fountainbridge. He was believed to be responsible for robbing the Dunbar Bank, as well as for other burglaries about Leith, and in 1809 was apprehended and examined before the Sheriff. As he bore some resemblance to the man who had bought the bread-knife, the matter was fully investigated; but the authorities were satisfied that Red Will, however deeply stained with crime, was at least in this respect unspotted. He was therefore restored to the seclusion of the Hulks. The other candidate, Richard Wright, *alias* Black Dick, was taken in 1810 by Adkins, the Bow Street runner, for robbing the Whitehaven Bank, an exploit which conducted Dick to the scaffold. His bloodthirsty disposition, combined with other circumstances, suggested that he might be the Begbie murderer, so Adkins was employed to find out the facts. The condemned man, in the article of death, denied all knowledge of the deed; but one of his lady friends disclosed to Adkins that Dick, with certain criminal associates, had been in Scotland about the time in question, and that, in her judgment, he was very capable of committing such a crime. But the main point is that neither of these rogues answered the description of the murderer given by those who saw him, Red Will being a stout, coarse-looking man, full six feet in height, Black Dick a very plain-looking man, who generally wore a long dark grey frock-coat, and had the look of a horse-jockey or groom—the one

was too tall, the other of an appearance insufficiently genteel.

Robert Chambers, in his *Traditions of Edinburgh,* holds that Denovan has made good his case. "The description of the supposed Custom-house officer," he writes, "coincides exactly with that of the appearance of Mackcoull; and other circumstances are given which almost make it certain that he was the murderer." Henry Cockburn, on the other hand, in *Memorials of his Time,* regards Mackcoull's guilt as not proven. Denovan, he tells us, was an old High School-fellow of his, and a clever man. "Many curious and plausible circumstances are gathered together in support of this [Denovan's] opinion," he writes, "but the defect is that the reality of these circumstances themselves is as uncertain as that of the fact they are brought to establish. It is easy to make almost any hypothesis have an appearance of soundness when there is no contradictor." He admits, however, that Mackcoull had certainly a very strong resemblance to the murderer as described by those who saw him.

There is another Richmond in the bloody field, an anonymous assassin whose claim to the distinction must be mentioned. On the margin of his own copy of Mackcoull's "Life," Sir Walter Scott has written: "Circumstances have gone far to fix this cruel and mysterious crime on one ——, a surgeon in Leith, respectably connected and married to the daughter of a worthy and substantial burgher of Edinburgh. . . . This lad was a profligate and spendthrift, who had exhausted his patrimony, and was in great necessity at the time of the murther. Soon afterwards he became possessed of money, paid his debts, and seemed to live well without any sensible addition to his means. His discourse frequently turned on the murder of Begbie, and the story seemed to haunt him. I have been told that suspicion had approached him very nearly, when he committed suicide. The thing was then smothered, through respect to the feelings of his connections." The only other trace of this elusive practitioner which I am able to discover is in the following statement by Sir Daniel Wilson, apropos of the Begbie tragedy, in his *Memorials of Edinburgh*: "Mr C. K. Sharpe informed me that a medical man of strangely recluse habits, who had been at

the time a student at the University, died in Leith many years after, and on his deathbed he confessed to the deed. But, if so, the fact was known to few. The story now survives as one of the unsolved mysteries of crime."

The impression of the affair made upon Scott at the time is recorded in a letter by him to Sir Adam Ferguson, dated 16th December 1806, a month after the murder: "You will expect no doubt that I would give you a little news from Auld Reikie. . . . I will therefore tell you concisely that the country gentlemen are cutting each other's throats about politics, while the blackguards of the town have more sensibly 'done' an unfortunate porter who was loaded with £6000 [*sic*] belonging to the British Linen Company, and was murdered in daylight at the head of the Bank Office Close and within twenty yards of their Secretary. He was most dexterously despatched with a single stab through the very heart, so that he died without a groan, and the assassin escaped with his booty. I declare this story makes me grouze whenever I think of it. The man is probably in the better ranks of life, from the precautions and desperation of the action—very likely somebody on the verge of bankruptcy, that awful interval when the best men are apt to become flurried, and those who are naturally bad are quite desperate. If this be the case, he will probably never be discovered unless by some mere chance, as he will not, like a low ruffian, be either suspected from the quantity of the booty or obliged to fly from his habitation." Problematical the whole question seemed to Sir Walter then; problematic it remains for us to-day.

Whether or not Mackcoull did in fact fill the rôle assigned to him by Denovan, that at least he was well fitted to sustain it will appear from a survey of his criminous career, to which I now invite the reader. His manifold activities form material for a goodly volume, entitled *Memoir of the Life and Trial of James Mackcoull or Moffat* (Edinburgh, 1822), giving an account of his trials before the Jury Court and the High Court of Justiciary, following upon the robbery of the Paisley Union Bank, illustrated with notes and anecdotes, also a portrait, which does ample justice to his truculent aspect. Another engraving of the hero may be seen in

Kay's Portraits, together with a sketch of his life based upon the *Memoir.* The anonymous biographer was unfortunately rather too refined for his job. To the admirable autobiography of David Haggart, then recently published, he excepts as having given offence to a respectable class of readers, and of his own subject he observes: "Many striking circumstances and daring robberies in which this remarkable character was engaged have been altogether omitted, as either bordering on indecency or having a tendency to mislead by example. Nothing has been admitted which can in any way be deemed offensive to the feelings of the most delicate." Thus something less than justice has been done to Mackcoull's memory; but even as emasculated by this queasy editor his robust figure stands out in proportions sufficiently impressive.

He was born in London, within sound of St. Sepulchre's bell, in 1763. His father's business was to make for the lieges pocket-books, of which the son spent his later life in despoiling them. His mother, to whom Jem was wont to apply the tender term "Old Gunpowder," seems to have been a lady of strong but unestimable character, who reared her little brood of six, as we learn, in the very sink of vice. She was celebrated in the social circle which she adorned for her dexterity in stealing pewter pots from places of public refreshment. In view of their educational disadvantages, therefore, it is not surprising that the young Mackcoulls turned out indifferent citizens. The youngest, Ben, suffered in 1796 upon the New Drop at Newgate for a robbery in Drury Lane. One of the girls, Ann, under the names of Wheeler and of Green, was many times convicted of theft; indeed, she and her mother may be said to have been practically at home in the House of Correction. Jack, the eldest hope, was by his own account a man misjudged, victim of the inveterate malice of Bow Street. He was tried at Stafford in 1807 for robbing the Edinburgh mail and forging indorsations on sundry bills of exchange, but was acquitted; his operations upon the pockets of London playgoers were notoriously successful, and he laboured under suspicion in connection with divers bold burglaries at Blackheath. But the law never managed to bring him to book; and in his *Abuses of Justice, as Illustrated by my own Case* (London, 1809),

Jack published a vigorous but unsatisfying vindication of his honour.

The amiable traits which distinguished the family were in Jem Mackcoull precociously developed. At a tender age he began to purloin the little playthings of his schoolfellows, and unless caught in the act was never known to confess his guilt. As a child he could stare an accuser out of countenance, while denying the charge with consummate effrontery—a faculty which increased with his years. A peculiar construction of the eye facilitated this useful gift. His earliest recorded depredation was inglorious—the robbing of a vendor of cat's meat by blowing snuff in his eyes and decamping with his exiguous takings. Apprenticed to a leather-stainer in Clerkenwell, the lad spent his spare time in company with a gang of young roughs, and speedily became an adept at "clicking" and "twitching" the hats and shawls of playgoers. The leather-stainer soon dispensed with his services, and he went upon the town a professed thief. A daylight robbery of an old gentleman's watch in St. James's Park had important results: Jem's accomplice was taken, and the victim was prepared to point him out "amongst a thousand men." Another person, too, had recognised him; so Jem, seeing that the game was up, put himself in the hands of his father, who, to preserve what remained of the family pride, contrived that under an assumed name he should join the Navy. He served with credit as an officer's servant on the West Indian and American stations, and after an absence of nine years returned to London in 1785 with a respectable sum in prize-money and wages. But, alas! these well-earned savings were speedily consumed at the gaming-tables, cock-fights, and ring-matches which he assiduously attended, no less than in the company of a certain section of the fair sex, with whom he was ever a prime favourite; so he soon reverted to his old evil ways of making a living. Genteel and courteous in manner, he was eminent in gulling simple folk, beguiling them with plausible tales while his confederates despoiled them, for his biographer records that he could tell a lie with a better grace than any man alive. As Captain Moffat, master of a West Indiaman, he became an ornament of taverns, his prowess at cards or bottle being equally notable, and he

devoted much attention to the study of "doping," or the manipulation of other folks' drink, at which he was soon an adept. To his intimates he was known as the "Heathen Philosopher"—his title to the adjective at least was legitimate; and among his escapades was the robbing of a star-struck baker, whom he induced one night to watch with him for the appearance of a new arrival among the heavenly bodies. Whether or not the baker found the star, he certainly lost his pocket-book.

At twenty-eight Mackcoull married a lady with whom he had long been intimate. She kept a thriving establishment, termed a "lodging-house" by his discreet biographer. To this step he was urged less by the charms of the proprietrix than by the lucrative character of her calling, the fact that he was hard up, and the knowledge that his usual haunts had grown too hot for him. But matrimony did not quench his sporting instincts: he received stolen goods beneath the domestic roof, contriving for their concealment a secret receptacle by blocking up a window, which with reference to the window tax he humorously called "Pitt's Picture." The police, however, got wind of this work of art, and a warrant was issued for arrest of the collector. A voyage to the West Indies was obviously unavoidable, so Mackcoull left England. He remained abroad for three years, most of which he spent in Germany, where, doubtless, he met with much congenial company, and returning to this country landed at Leith in September 1805. How he occupied himself in Scotland we have already seen, but one incident of his sojourn, unconnected with the Begbie affair, may be noticed. In the spring of 1806 he was caught pocket-picking in the pit of the Edinburgh theatre. An officer was sent for, but Mackcoull broke through the crowd and escaped; the officer gave chase, and overtook him in a close or passage called the Salt Backet, leading from the head of Leith Street to the Low Calton. There the officer felled him from behind with a bludgeon, and, fearing that he had killed him, left him lying in his blood and withdrew from the case—a curious commentary on the police methods of the time. But Mackcoull was no tender plant: he recovered consciouesness and staggered home to New Street, where he told his landlady that he had been set

upon by some drunken sailors. It is satisfactory to learn that he was long confined to bed, and bore for the remainder of his days a deep scar on his head as a memento of the experience.

Mackcoull vanished from Edinburgh immediately after the murder; the same month, as Captain Moffat, he materialised in Dublin, where he enjoyed some notoriety as a footpad. Committed to prison for robbing a man of ninety-six guineas, he was discharged without trial owing to the timely death of the prosecutor, and returned to Edinburgh in the autumn of 1807. How he fared there we know in part, but a word or two more may be added. The inhabitants of Newington, that ingenuous suburb, were much taken with the affability of "the English gentleman," and his company was in great request. It was remarked of Mr. Moffat, as he then styled himself, that he was an ardent playgoer; though "now pretty corpulent and round" he cared not how much he was squeezed and jostled in the pursuit of his pleasure. Every evening found him fighting his way into the pit of the old Theatre Royal in Shakespeare Square. Pocket-books, watches, and money disappeared as regularly from the persons of the audience, till patrons of the drama took to leaving their valuables at home. One night, when Incledon was singing and the house was very full, a certain lawyer felt a hand in his own pocket. Indignant at the novelty of the sensation, he sent for the police, and an officer came—by a strange chance the very man who thought he had killed Mackcoull in the Salt Backet the year before. Relieved to find himself free from blood-guiltiness, the officer took our hero into custody, but nothing was found upon him; so Mr. Moffat, having lain some months in jail, was discharged for lack of evidence. Had the Edinburgh authorities communicated with Bow Street, they would have learned what sort of angel they were entertaining unawares.

On his release Mackcoull sailed for London in one of the Leith smacks, and arriving safely, concealed himself in the wilds of Somers Town. In 1809 he revisited Scotland for an extensive tour in the North, which resembled a paper-chase in respect that he left everywhere behind him a trail of forged notes. Returning to town after a pleasant holiday, to which the only drawback had been a visit to

Stirling jail, due to a misunderstanding with the magistrates, Mackcoull made the acquaintance of the celebrated Mr. Houghton or Huffey White. This personage, one of the saints of the Newgate Calendar, had recently escaped from the Hulks, and then occupied retired lodgings in Tottenham Court Road. The meeting, which occurred fortuitously in a tavern in that thoroughfare, was of consequences as pregnant as those attending that of Deacon Brodie with George Smith in 1786. Mackcoull broached his favourite project, the burglary of a Scottish bank; Huffey had a racial prejudice against all things Scots, but agreed to co-operate in any English job. His landlord was a locksmith, John Scoltock by name, skilled in the manufacture of house-breakers' requisites. It was arranged that the partners should leave at once for Chester with an eye to the local banks, and that for greater security Scoltock should forward to them by coach the necessary tools. This excess of caution proved their undoing; the box was broken in transit, the contents were eloquent of their purpose, and the consignees were arrested. Six months with hard labour in Chester Castle was all that Mackcoull made by the adventure; Huffey White was reinstated in the Hulks.

No sooner was Mackcoull at liberty than he set about contriving his pal's release. In this laudible design he was assisted by Mr. Harry French, a common friend, who of his own motion had lately left the same penitentiary retreat. Fortune crowned their efforts; and when the three adventurers were reunited, Mackcoull proposed as a promising speculation the burgling of the Paisley Union Bank. The needful funds having been raised, the party to avoid publicity left London for Glasgow in a post-chaise, Scoltock undertaking to furnish as before the needful materials of their art, to be paid for when the game was won. In due course Mr. Moffat, a responsible merchant, with Mr. Down and Mr. Stone his cousins, took lodgings with Widow Stewart in the Broomielaw. They had come North, it appeared, on important business, but the habits of these commercial gentlemen were eccentric; they kept the house by day, going forth nightly about ten o'clock and sometimes not returning till dawn. During their stay a box of assorted keys arrived from London. Despite the

variety of its contents they failed to satisfy the mercantile requirements of the strangers, and Mr. Moffat had to make a journey to town to get them altered. On Tuesday, 9th July 1811, the party, having given the widow a fortnight's previous notice, left their lodgings. When the officials of the Paisley Bank in Ingram Street opened the premises on Monday morning, the 15th, everything seemed in order; iron doors, safes and lockfast places were all secure as usual; but recourse to those repositories disclosed the fact that during the week-end £20,000 in notes had been abstracted. It was Glasgow Fair Week; rogues and vagabonds abounded in the city—a point not overlooked by the robbers in choosing their time; but the presence of our particular scoundrels had not gone unmarked. Early in the morning of Sunday, 14th, a person named Clachar saw from his window three men sitting on a dyke in Stirling's Road counting parcels of bank notes. He was able afterwards to identify Mackcoull as one of the tellers. The travellers were traced to Edinburgh, where they discharged their chaise and, taking another, left for the South; at the Talbot at Darlington they foolishly changed two £20 Scots notes; at Welwyn they were seen at the White Hart sitting round a table covered with Scots notes, and left behind them there a portmanteau to be forwarded to Scoltock's address in London—a fatal blunder. Bow Street was applied to, and when the officers of justice visited Tottenham Court Road they secured not only the box of keys and the portmanteau, but the persons of Scoltock and White—Mackcoull having left the house but a minute or two earlier. White's pocket-book contained a businesslike memorandum of the amounts of the stolen notes, but the booty had disappeared with Mr. Moffat.

That capable merchant, perceiving that his wares were becoming unmarketable, decided on a prudent step. He opened communications with Sayer, the well-known Bow Street runner and an old friend of his wife, offering to refund the stolen notes on condition that on restitution being made, no proceedings should be instituted against the parties. That such a bargain could be considered seems to us incredible, but the practice was common enough in those unscrupulous days, the banks actually

combining to retain an attorney to deal with the depredators. The conditions accepted and the pardons obtained, Sayer and Mrs. Mackcoull waited upon the agent for the bank and delivered to him certain parcels of notes, which when counted were found to amount to under £12,000! The agent, we read, remonstrated, not without reason; but the lady, coolly referring him to White and French for the balance, took her leave. Major Griffiths, in recounting the robbery in his *Mysteries of Police and Crime,* says that Sayer, who died at an advanced age worth £30,000, "had feathered his nest finely with a portion of the proceeds"; but as Mackcoull admittedly made some £8000 by the transaction, there cannot have been many feathers left for Sayer. Poor Huffey White got nothing beyond a lodging aboard the hulk *Retribution,* to which for former offences he was a third time sent; Harry French, the other victim of Mr. Moffat's friendly move, vowing vengeance, sought for him with a pistol; but the merchant invoked the protection of the police, so French, arrested on an old charge, went an involuntary trip to New South Wales, where he ceased from troubling. As for Captain Moffat, that experienced mariner, the time was ripe for one of his West India voyages, upon which he presently departed.

In 1812, having returned to his old haunts, Mackcoull was arrested in London at the instance of the bank. As, heavily ironed, he sat on the top of the coach which was to take him to Scotland, he was greeted by certain professional acquaintances who resented the part he had played towards his late colleague. Some remarked that the Captain looked extremely well after his recent voyage; others, in rude allusion to his nose, observed that the convoy was about to get under weigh, for the Commodore had hoisted the Blue Peter. "Nothing was wanting," said they, "to complete his full dress but a nosegay, which he would easily procure among the 'Flowers of Edinburgh.'" Sped by these well-wishers Mackcoull arrived in Glasgow, where he was committed for trial; but owing to supposed lack of proof was allowed to "run his letters," and so regained his liberty. While in jail he made the bank a sporting offer of £1000 to drop the prosecution, in pursuance of which Mrs. Mackcoull, his venerable mother, handed that sum to Mr.

Harmer, the prisoner's London solicitor, who paid it to the bank's agent. The medium proved to be their own notes! After the demise of "Old Gunpowder," Mackcoull, with rare effrontery, raised an action against Harmer, on the ground that he had parted with the money without his [Mackcoull's] authority, in which he actually succeeded and was awarded costs. Emboldened by these triumphs, Mackcoull now began to dispose in Scotland of the remaining notes, trading openly as a bill-broker under the name of Martin. In 1813 he was recognised and arrested by Denovan. It was believed, however, that having already "run his letters" he could not be again committed for the same offence, so the Magistrates of Edinburgh discharged him, but impounded his bills and drafts, which were subsequently acquired by the bank.

After persistent efforts to recover "his property" by negotiation, Mackcoull sought to obtain redress by legal proceedings. The spectacle of a burglar suing a bank for recovery of the spoil was sufficiently unusual to attract much notice. The litigation lasted for five years, Mackcoull availing himself of every form of attack and defence known to the law. The bank's chief difficulty was to prove that the money with which the bills were bought was part of the proceeds of the robbery; and when after a prolonged struggle they at last forced Mackcoull to undergo judicial examination, nothing to the purpose was got out of him. With boundless impudence he posed as an innocent and much-injured man, and objected with all the nicety and acuteness of an experienced lawyer, to many of the questions put to him. Confident of victory, he now awaited the result of the bank's action in the Jury Court for "repetition" of the stolen notes. In these circumstances the bank was advised that an expert Bow Street runner he employed to trace the route of the robbers from Glasgow to London, and to collect a chain of evidence from the people of the inns at which they stopped. To this end Denovan was engaged, with such success that the result of his labours, which occupied a month, exceeded the most sanguine hopes of his employers, and were the means of finally routing their truculent adversary.

The case came before Lord Chief Commissioner Adam on 11th May 1820, Francis Jeffrey and Henry Cockburn

appearing for the bank, J. P. Grant and Archibald Alison for Mackcoull. The proceedings are reported in Murray's *Jury Court Cases,* vol. ii. pp. 308-329. The issues to be tried were, shortly—(1) Whether the defender stole or was art and part in stealing from the office of the bank the notes charged? (2) Whether he received the whole or part thereof knowing the same to be stolen? and (3) Whether certain bills of exchange were bought by him with part of the notes so stolen? While Cockburn was opening the case for the bank a disturbance took place, caused by the enterance of Mackcoull, who pushed his way through the crowded Court till he got close to Cockburn's elbow, where he stood staring about him in an offensive manner, to the great annoyance of counsel. Upon protest made, he had to take a back seat, and Cockburn continued his address. "Mr. White," said he with pleasant humour, "the defender will not be able to call to speak to his character, as he was unfortunately executed some time back for another offence; but a police officer will give evidence as to their intimacy. Harry French, who was once suspected of a murder and robbery, is another acquaintance of the defender; but his valuable services in this hour of need will be also lost, as he is now undergoing a sentence of transportation for life." Much amusement was caused by the reading of a letter written by Mackcoull in 1819, in which the following passage occurred:—"If there is any truth in the story about the bank being at all robbed with false keys, it may, as I am told, happen that this man White, who is said to be my accomplice, may turn out to be *some Edinburgh deacon or magistrate with a gold chain and cocked hat;* for it was by them, along with the procurator-fiscal, that my money was first of all taken forcibly from my person under the pretence of a crime, but for the covered purpose of taking my money. They have dropped the charge, but detained my property. You can have no conception to what length corruption and oppression is gone in this part of the United Kingdom." The words italicised are plainly a dig at the professional lapses of the late Deacon Brodie.

The evidence was purely circumstantial but quite conclusive; the identity of the three "merchants" was fully established by witnesses from Glasgow and by waiters

from the Talbot and White Hart Inns, and each stage of their journey southward was clearly traced. When the name of John Scoltock, blacksmith in London, was called, Mackcoull's effrontery deserted him; he rose hurriedly and tried to leave the Court, but so great was the congestion that despite his experience of crowds he was unable to force a passage, and sank down in a faint—so powerfully were his feelings affected by the unlooked-for appearance of this old friend. The revelations of Scoltock and the confirmative testimony of Mrs. White, "widow of the deceased Houghton White, who was executed at Northampton for the robbery of the Leeds mail," and whose connubial confidences so far as relating to the burglary were admissible in evidence, finally disposed of Mr. Moffat's pretensions to commercial integrity; witnesses from Bow Street produced Huffey's pocket-book, the portmanteau, and the false keys; and the knock-out blow was appropriately delivered by the last witness, Mr. Gibbons, an eminent pugilist, who after the robbery had at Mackcoull's request kindly accepted the custody of some of the notes.

Denovan, to whose zeal and ability the unmasking of Mr. Moffat was mainly due, adds a gruesome detail as to his recovery of the keys, which with other such "productions" had rusted since 1811 in the repositories of Bow Street. He found them, he tells us, "actually covered by Williams' bloody jacket, and the maul and ripping-iron with which the Marrs and Williamsons were murdered in Ratcliffe Highway." How the conjunction of those crimeful relics would have charmed De Quincey!

No evidence was led for the defence, and Mr. Grant addressed the jury. The bank, he argued, had either compounded a felony in taking the £12,000 from Mackcoull's wife and the £1000 from Harmer, or by their acceptance of those sums had discharged the defender of their claim for civil damage. Only by witnesses of infamous character was the defender directly connected with the robbery; and counsel excepted specially to the admission of the hearsay evidence of White, a convicted felon, apart from which there was no sufficient proof. The Lord Chief Commissioner then charged the jury, who after an absence of twenty minutes returned a verdict for the bank upon all

three issues. "We may say with great truth," says a contemporary report, "that no civil trial by jury in Scotland ever excited so much interest, nor was ever there a decision given which afforded more general satisfaction."

Had he won, it was Mackcoull's intention to raise an action of damages against the bank, but this amiable purpose was superseded by his arrest, followed by a charge, on criminal letters, of theft, aggravated by housebreaking. An objection to the form of citation having been repelled (Shaw's *Justiciary Class,* No. 9, 12th June 1820), the trial took place on 19th June before the High Court of Justiciary. The evidence adduced in the civil action was repeated with some additions, which included that of Sayer, who had modestly declined to testify in the Jury Court. He proved the restitution of the £12,000 by the prisoner's wife, and his connection with White and French. Mackcoull had instructed his brother Jack in London to prevent by force and fear the attendance of as many wittnesses as possible. Mrs. Mackcoull and others were not to be deterred either by appeals or threats; but these fraternal menaces so terrified Scoltock that he disguised and hid himself. Spotted by one of the Bow Street patrols two nights before the trial, he was taken, and regardless of expense was brought to Edinburgh in a chaise-and-four, arriving there only just in time to add his testificatory nail to the prisoner's coffin. Mackcoull, we are told, was observed to gnash his teeth at this second surprise thus sprung upon him by the blacksmith, to whom he had been assured he might apply the pregnant phrase of De Quincey's connoisseur Toad-in-the-Hole, "*Non est inventus.*" The verdict was a foregone conclusion, and the Court pronounced sentence of death.

Curiously enough the convict's wife, whom he had treated throughout with consistent cruelty, petitioned the Government for his reprieve, and when this was granted, owing, it was said, to some mysterious hold which he had obtained upon one of the Secretaries of State, she ministered to his comforts while in prison. But with the final collapse of all his schemes Mackcoull's fierce spirit was broken; he lost flesh, his hair turned grey, his mind grew weak and childish; on 22nd December 1820, already

an old man at fifty-seven, he died in jail, beset by visions of the flames of hell, and was "decently interred" in the Calton Burying-ground at his widow's expense. I pretermit the moral inferences drawn by his biographer, which seem to me superfluous as the painting of lilies.

WITH BRAXFIELD ON THE BENCH

Mad call I it; for, to define true madness,
What is't but to be nothing else but mad?

—*Hamlet.*

APART from the Sedition Trials of 1793 and 1794, which, however important in their political aspect and stimulating to their generation, are become for modern readers but a weariness of the flesh, we have reports only of three criminal cases tried by Lord Braxfield as Justice-Clerk. Of these, the first in time and interest is that of Deacon Brodie, the Jekyll and Hyde of eighteenth-century Edinburgh, whose trial on 27th August 1788 is the most vivid and picturesque in the judicial annals of Scotland.

William Brodie, as the reader may know, was a well-esteemed citizen, a prominent member of the Town Council, and a thriving tradesman, who, despite his forty years and inconsiderable inches, in mere boyish exuberance and as a protest against the Calvinistic smugness of his set, embraced the business of burglary. The futile triumphs of his criminous career, no less than the ineptitude of the enterprise with which it so ignominiously closed, would have provoked the contempt of Mr. William Sikes or of any other competent practitioner; but the Deacon's lean achievement in this connection, redeemed by his shining sportsmanlike qualities and whole-hearted devotion to the life romantic, has impressed posterity in a manner altogether out of proportion with its professional merit. He dressed for the last ceremony with as scrupulous a care as if the parson instead of the hangman were about to tie the knot. As he passed to the scaffold he greeted in the front rank of the crowd a gentleman of his acquaintance with the remark that he was glad to see him there. The friend said he was sorry to see *him* in such a situation. "What would you have?" replied the Deacon with a shrug, "it is *la fortune de la guerre*." And so he went up to his death.

Betrayed by two base accomplices—the one a truculent ruffian, the other a sneaking knave—Brodie, together with George Smith, a partner in his nefarious games, had been tried before Braxfield for breaking into and robbing the Excise Office at Edinburgh. The Deacon was brilliantly defended by Henry Erskine, then Dean of Faculty, while John Clerk undertook the arduous defence of Smith. The case was reported at the time by one of the jury, William Creech, the well-known Edinburgh publisher, who afterwards attained the dizzy dignity of the Provost's chair, and also by Æneas Morrison, the agent for Smith. Divers important legal questions which arose in the course of the proceedings were determined by Braxfield with sound judgment, and his conduct throughout the twenty-one hours' sederunt—during which, by the way, he never left the Bench—was eminently patient, fair, and just. The amazing scene occasioned by the pugnacity of Clerk, then making his début in the Justiciary Court, omitted from the reports for fear of kindling judicial wrath, but restored on contemporary authority in the edition of the trial for which I am responsible, should, one would think, have afforded the Justice-Clerk a unique opportunity for the display of that harshness, impatience, and hostility towards counsel with which Lord Cockburn discredits him. The evidence of the informers having, after debate, been duly admitted by the Court, Clerk, in his address to the jury argued that their testimony ought not to have been received, and that the jury were themselves the judges both of the admissibility and credibility of the witnesses. Braxfield told him he was talking nonsense, whereupon Clerk sulkily sat down and refused to continue his speech; but as his Lordship was then about to charge the jury, Clerk sprang to his feet, and, shaking his fist furiously at the judge, cried out, "Hang my client if ye daur, my Lord, without hearing me in his defence!" After consultation with his brethren the Justice-Clerk merely intimated that counsel might "gang on" with his address, and the incident closed. Clerk afterwards complained that he had met with no politeness from the Bench, but it rather appears that the shoe was on the other foot; the bullying came from the Bar, and Clerk, whose contention was as bad in law as were his manners in taste, was treated

throughout by Braxfield with a leniency and forbearance far exceeding his deserts.

As I have elsewhere dealt so fully with Deacon Brodie's case it is unnecessary to say any more about it here; but of another *cause célèbre* at which Braxfield presided, namely, the trial of Major Sir Archibald Gordon Kinloch of Gilmerton, I propose to give some account, because it is less generally known, and as being the first case in Scotland in which the criminal responsibility of the insane was seriously considered.

Gilmerton House, in East Lothian, the seat of the old and honourable family of Kinloch, was at the time in question possessed by Sir Francis, the sixth baronet, who had succeeded to the title and estates on the death of his father, Sir David, at the age of eighty-five, on 19th February 1795, but two months before the domestic tragedy with which we have to do. The other members of the family then living at Gilmerton were the baronet's younger brothers, Major Gordon and Mr. Alexander, familiarly named Sandie, and their sister, Miss Janet Kinloch. The major, many years before the commission of the fatal act by which he succeeded to the baronetcy, had well-nigh died of fever in the West Indies; and although having apparently recovered his health and returned to Scotland, he left, in his counsel's phrase, the better part of him behind. His temper became peculiar and uncertain, he grew sullen, restless and irascible, and as his mental derangement increased, he even attempted his own life. Unfortunately, as it happened, the family, from a natural unwillingness to treat him as a madman, took no steps to control his actions until the eve of the tragedy, when, as his condition was obviously dangerous, arrangements were made for his restraint. But before these could be effectually employed the major, under the delusion that his brother has poisoned him, mortally wounded Sir Francis with a pistol on the staircase of the house of Gilmerton, with the result that he was indicted for his murder. The defence was, of course, insanity; the prosecutor maintaining that there was not that degree of dementia which should relieve the pannel from liability for his acts. Such being the issue, let us see how Braxfield and the law of Scotland dealt with it.

Of that trial we have an excellent and apparently verbatim report (Edinburgh: J. Elder, 1795), taken in shorthand and carefully revised by counsel, as its title-page informs us; and a sufficient abridgment is contained in the *Scots Magazine* (July to August 1795).

On Monday, 29th June 1795, at ten o'clock, the prisoner was brought to the bar of the High Court of Justiciary. He was dressed in black, and his demeanour is described as decent and respectful. Sir Foster Cunliffe, his brother-in-law, and Mr. Wilkie of Fouldean, his cousin, attended him throughout the proceedings. Braxfield presided, the other judges being Lords Eskgrove, Swinton, Dunsinnan, and Craig. The Lord Advocate (Robert Dundas) and the Solicitor-General (Robert Blair), assisted by John Burnett, appeared for the Crown; the prisoner was defended by David Hume, Charles Hope, William Rae, and David Monypenny—names eminent in Scots legal annals. Both Burnett and Hume deal with the case in their respective treatises on the criminal law of Scotland. To the indictment charging him with the murder of his brother, the pannel pleaded Not Guilty, whereupon Hume in a short speech, expressed, we are told, with a degree of tenderness and feeling which greatly affected the Court, stated the meaning of his client's plea in the particular circumstances of the case, and trusted that their Lordships would permit every evidence to be brought that would substantiate the defence. He proposed to prove a state of utter insanity at the time of the deed, preceded by a course of infirmity and of occasional derangement for years. The Court found the libel relevant, but allowed the pannel to prove all facts and circumstances in alleviation. A jury was then empannelled, of which Andrew Wauchope of Niddry Marischal was chosen Chancellor, and the Lord Advocate adduced his proof.

The first witness called for the Crown was Duncan McMillan, writer in Edinburgh, an intimate friend of the family, who had been at Gilmerton at the time; but with deference to his Lordship, I think it will make for clearness if we begin with the evidence of a later witness, George Somner, surgeon in Haddington. On Monday, 13th April, Mr. Somner received an urgent message from Miss Kinloch, asking him to come immediately to

Gilmerton. Arriving there in the afternoon he met in a postchaise at the door Major Gordon, who seemed much agitated and said he was going to dine in town. Miss Kinloch gave Somner certain particulars regarding her brother's behaviour, from which, as also from what he had himself observed, he concluded that the major was mad, and ought not to be allowed at liberty. He therefore urged upon Sir Francis the necessity of restraining him, and the baronet asked Somner to follow his brother to Edinburgh, and there consult with Dr. Home as to what should be done. On his return to Haddington, Somner met Alexander Kinloch and McMillan at Mrs. Fairbairn's change-house, where they dined. They told him that they had seen Major Gordon going towards Edinburgh. After dinner the major himself drove up in a carriage, and was invited to join the party. He said he was very ill; and his nerves were in such a state that he could not carry a glass of wine to his lips. They persuaded him to return with them to Gilmerton, but about a mile short of the house the major made an excuse to leave the chaise, and going round the back of it, disappeared. A postillion despatched in pursuit reported him as saying that he had gone back to Haddington. Next day, Major Gordon having returned to Gilmerton before dinner, Somner received a message to "bring what was necessary," and accordingly arrived with a professional nurse and a strait-waistcoat about ten o'clock that night. He went upstairs and saw the major, whom he found pretty quiet, but still with a wild look in his eye. Somner and McMillan supped with the rest of the family, when "they agreed in the propriety of securing him," but it appeared that the servants were afraid to assist. About three in the morning, as they were still sitting up discussing the situation, Major Gordon came down from his room very agitated and complaining of violent pain. He blamed as the cause a dose of analeptic pills which he said Sir Francis had given him, and believed himself poisoned. He was persuaded to go back to bed, but in a few minutes came down again to the parlour, having nothing on but his breeches. What followed is not from Somner's account quite clear; but it seems that while his friends were endeavouring to get Major Gordon to go upstairs, Sir Francis either closed with him or attempted to do so,

whereupon the major drew a pistol from his breeches' pocket and fired, his brother falling on the staircase with a cry that he was "done for." Somner helped the baronet to his room and dressed his wound, which was a few inches below the breast bone, and appeared to him to be mortal. Sir Francis admitted that it was madness for him to have attempted single-handed to seize the major. Drs. Monro and Bell were summoned from Edinburgh; they extracted the bullet, but Sir Francis died the following night. The surgeons made a post-mortem examination, and certified his death as due to the injury he had received. The next time Somner saw Major Gordon was in Haddington Jail on Friday, 16th April, when he and Mr. Goldie, the minister of the parish, called to ask him to give directions as to what was to be done at Gilmerton, he being by his brother's death the reigning baronet. He replied that his state of mind was such that he could give no directions about anything, but agreed to the appointment of Mr. Fraser, Sheriff-Clerk of Haddington, to act in his behalf, remarking that it had been for him a fatal day.

Braxfield here asked Somner whether, when he last saw Major Gordon before the tragic event, he was in the witness's judgment incapable of distinguishing moral good from evil, or of knowing that murder was a crime. "When I saw him on the Monday and Tuesday," replied Somner, "I considered him perfectly mad." Mr. Hope said he wished the question had come from the Prosecutor rather than from the Bench, because he could then have commented upon it with greater freedom; but despite this delicacy he proceeded to give the Court the benefit of his own observation of madmen. He had never, he said, seen a man so mad, "though lying naked and chained on straw," who if asked, "Do you think murder a crime?" would not answer in the affirmative. There could be no degree in perfect madness: and the witness, having stated in those terms his opinion as a professional man, should not be pressed any further. The Lord Advocate, however, asked him whether, at Fairbairn's on the Monday and at Gilmerton on the Tuesday, he considered the major able to discern good from evil, and to know that murder was a crime. "I cannot say that he could not," Somner admitted.

In cross-examination by Mr. Hume, Somner stated that

at Haddington Major Gordon was restless, agitated, and uphappy; he could not eat, but did not seem disposed to drink; it was not his wish to return to Gilmerton. Had Somner attempted to wrest the pistol from him, he would have met the same fate as Sir Francis. The major at first appeared soothed and pleased by his brother's kindness. He was not dressed so as to facilitate escape. When in jail the witness thought him sensible. In reply to the jury, Somner said he had attended the family professionally for twelve years. He knew of no hereditary mental taint. He did not think the major was drunk; he had never seen him in such a condition before. The passions of the mind might produce temporary insanity.

Duncan McMillan, writer in Edinburgh, gave the same account as Somner regarding the Haddington incident. At Gilmerton the major was calmer, owing to the attention of Sir Francis, who took him up to his bedroom. The witness retired immediately after supper, and was wakened by Somner with the news that Sir Francis had been shot. He attended the wounded gentleman, who exclaimed, " God Almighty help that poor unhappy man! " He saw nothing more of Major Gordon. McMillan further stated that he had known the family since 1762. Sir David Kinloch, the father of Sir Francis, died in February last (1795). The major was dissatisfied with Sir David's settlement, on which he took opinion of counsel. He was troublesome when he got drink, and had once been confined in Edinburgh as insane. The witness remembered an occasion on which there were high words between the brothers at table, when the major wounded Sir Francis in the face with a tumbler. Formerly he was one of the most mild and pleasant men McMillan had ever met. He often absented himself from home, and a few days before the tragedy was staying at the Black Bull Inn, Edinburgh, where he seemed to be living harder than usual. No steps were taken to restrain him until the Monday evening. In reply to Braxfield's question as to the major's judgment on the occasions to which he had referred, McMillan said, " I think he was of a capacity to judge between good and evil."

Three of the men-servants at Gilmerton, examined as to what happened on the fatal night, deponed that they were

sitting up in the butler's pantry when they heard a shot, and running into the dining-room, laid hands upon Major Gordon. A pistol, newly discharged, was picked up on the floor; another, fully loaded, was found in his pocket. He was held down till a strait-waistcoat was put upon him, after which he was removed to his own room. "He cried to let him live for one hour and he would give us £100 apiece." He asked whether his brother was dead; were they going to cut his throat or stab him? "I have done an awful thing," said he; but his brother had poisoned him, otherwise he would not have done to him what he did; he knew he would have been seized whether he had shot Sir Francis or not. The witnesses stated that he was half-dressed and had no shoes on at the time.

Hay Smith, writer in Haddington, deponed that on the Wednesday night (15th April) he accompanied Major Gordon to Haddington Jail. He was in great distress, and asked witness, as a lawyer, "to take a protest against these proceedings." At subsequent interviews Hay found him collected and rational.

Benjamin Bell, surgeon in Edinburgh, said he was summoned to Gilmerton on 15th April, and described the condition in which he found Sir Francis. The wound was mortal. The patient asked witness what had become of "that unhappy man"; he gave a most distinct account of the accident. The bullet was extracted, and later a post-mortem examination was made, and a report prepared, which the witness identified. He had attended Sir David Kinloch and knew the family, but never understood that Major Gordon was insane. Since 24th May he had visited him twice a week in Edinburgh Jail, and neither saw, believed, nor judged him to be under any degree of insanity; he behaved with propriety, and seemed to know his situation. Cross-examined, Mr. Bell said that his visits lasted from fifteen to twenty minutes. He could not say that the major might not have been "furious" on 15th April. Jealousy of plots was a constant symptom of madness, and a man's best friends were often objects of suspicion. A large dose of laudanum might produce furiosity; the quiet of confinement would be likely to promote recovery.

Dr. Alexander Monro, physician in Edinburgh, said he

had visited Major Gordon in jail four times since 24th May, and saw no signs of insanity about him. In cross-examination, Dr. Monro admitted that he could only give an opinion as relative to the occasions on which he saw the patient. Replying to the Lord Advocate, he said he had never known a case of anyone going mad for forty-eight hours, and then recovering and continuing well, except where the person had swallowed a great quantity of liquor.

The next witness was Charles Hay, advocate, better known to the present generation as the rubicund Lord Newton of Raeburn's glowing canvas. He said he was an intimate friend of Sir Francis Kinloch, who after Sir David's death consulted him regarding his late father's settlement. Before proceeding further, Hay asked the ruling of the Court as to his answering questions relating to confidential conversations with a client. " Your delicacy, Mr. Hay, is proper," said Braxfield; " but it is the opinion of the Court that in the circumstances of the case it is your duty to give us all the information in your power." Thus relieved of his professional scruples, Hay said that he had a consultation with Sir Francis in March of that year. The baronet, as his father's general disponee, had destroyed certain unimportant papers, of which Sir David kept a great number; this " inspired a jealousy " in Major Gordon's mind that something had been done prejudicial to the interests of the younger branches of the family, a view with which he imbued his brother Alexander. Hay, having examined the settlement, advised Sir Francis that it was in order, the rights of the children being fully provided for, and that there was no possible ground for any legal dispute. At the request of Sir Francis, Hay gave him a written opinion to that effect to show to his brothers. He understood that the " difference " between Sir Francis and the major had risen to a very great height indeed.

The Rev. Mr. Goldie, minister of Athelstaneford, deponed that he went to Gilmerton the morning after the accident, found Major Gordon lying bound in his bed, and had a conversation with him. The major expressed no horror at what he had done, saying that he had acted in self-defence, as there was a deliberate plan formed to destroy him, and his brother had poisoned him with pills.

He wished to consult Mr. Goldie as to his financial affairs, and when advised to delay doing business meanwhile, rejoined, "Procrastination is the thief of time." The witness saw him next in jail, when he declined to give any directions whatever, "and left the whole to his brother Sandie." In the end he agreed to grant a power of attorney in Fraser's favour. Mr. Goldie said he had known the family since 1778. In 1790 he first heard that Major Gordon was behaving strangely, but saw no sign of insanity till after Sir David's death, by which he seemed much affected. In reply to Braxfield, Mr. Goldie stated that as the result of his own observation he considered the major deranged, and had warned Miss Kinloch on the Monday that he would commit some desperate deed if he were not secured. Before his illness he was always humane, warm-hearted, and generous.

Alexander Fraser, Sheriff-Clerk of Haddington, said he had long acted as man of business for Major Gordon, who, though often peevish and discontented of late, showed no marks of actual insanity till Monday, 13th April. On that day Sir Francis Kinloch wrote to the witness, "I am sorry to inform you that Gordon is stark mad," and stating that Somner had been sent for in consequence of the major having told his sister that he had taken poison. Fraser went to Gilmerton, and found the unhappy man alone in the parlour, walking up and down brandishing a blunderbuss, which he proceeded to load and present. To the visitor's great relief he presently carried it out to the chaise, then waiting for him at the door. When loading the blunderbuss his hands shook in a most extraordinary manner, and he appeared greatly agitated. In cross-examination, Fraser explained the terms of Sir David's settlement, and stated that all differences between the brothers were at an end before the tragedy occurred.

The witness was then about to give particulars of what Miss Kinloch told him regarding the major's behaviour, reading from notes of the conversation "taken in his calmer moments," several weeks after the event, with a view to those proceedings, when the Lord Advocate objected. The Court, by a majority, ruled that the witness was not entitled to look at his notes. "I do not know, my Lords, that we should differ much, if we knew what we

were debating about," drily observed Braxfield, who was in the minority.

Fraser said he informed Sir Francis that he thought his brother "actually dangerous to mankind." The baronet was exceedingly vexed; he seemed to regard the situation as "a family affront." He told Fraser that he had bolted the door of his own room the night before in case of accidents. Hugh Dodds, clerk to Mr. Fraser, who had occasion to see Major Gordon on business connected with the estate during his confinement in Haddington Jail, stated that his conversation was rational and coherent.

The Crown case closed with the reading of the pannel's declaration, emitted at Edinburgh on 30th May, in which he said he had a very indistinct recollection of what happened on the night in question, as he was then quite deranged. He would have fired the pistol at anyone who came in his way. Since his confinement he had been greatly better, but was still subject to temporary derangement. He had always been perfectly satisfied with his father's settlement, and had no recollection of ever making any complaint regarding it.

For the defence, three of Major Gordon's old brother-officers, Colonel Twentyman, Major Mackay, and Captain Miller, were examined. They had known him at various times and places over a period of many years, and it may give a clearer view of his condition as they saw it if we consider in chronological sequence the facts to which they severally spoke.

In 1767 Gordon Kinloch joined the 65th Regiment as ensign at Cork, in 1778 became captain, and in 1779 obtained his majority in the 90th, then under orders to embark for the West Indies. With regard to his character in the regiment all three officers stated that he was friendly, generous, and benevolent, universally beloved and esteemed. Colonel Twentyman, who sailed with him to Santa Lucia, described him as possessing every good and gentlemanly quality. When they reached the island Major Kinloch was stricken with a malignant fever of an acute type, in which his delirium was such that he had to be held down in his cot by two soldiers. After long illness he was removed to Barbadoes as the only means of saving his life. When the colonel next saw him in England in 1783

there was a complete change in his conduct, manners, and conversation—a wildness in appearance and a flightiness in behaviour which were entirely new. On two occasions he sent urgent messages to come to him at once on business of importance, which the colonel found to be totally imaginary. Dining one day at Twentyman's table he took a violent dislike to another guest, Colonel Gardiner, to whom he was extremely rude; but later in the evening he jumped up from his chair, and embraced the object of his former hostility with a fervour which must have been embarrassing to that officer. Some time afterwards, meeting Major Gordon near the Adelphi, Twentyman noticed that his hair was uncombed, and his shoes and stockings were very dirty; whereas formerly he was most particular in his dress. He spoke of being troubled with the blue devils: "'Tis my head," said he; "I never shall recover from that Santa Lucia fever." The colonel was very glad to get rid of him.

Major Mackay said he first met Major Gordon after his illness at Mr. Charles Dalrymple's house at North Berwick in 1785, when he accused Mackay—an old friend—of affronting him at the card-table with a view to making him the butt of the company. Sir Francis Kinloch, who was of the party apologised for his brother's conduct, explaining that his temper and disposition were wholly changed by his late illness. In 1789 Captain Miller renewed acquaintance with the major one day in the Strand, when he found him sadly altered both in manners and appearance—wild in his conversation and slovenly in his dress. There were no signs of intoxication about him. In the summer of 1790 Major Mackay met Major Gordon again at Greenock. His looks were wild, and he said he had posted all night from Berwick to show Mackay a letter from his brother Sandie. "Read that," cried he, "and then be convinced how ill I have been treated by my whole family!" The letter was full of affection towards the major, earnestly begging him at his father's desire to return home to Gilmerton. In October of that year Captain Miller met him at Old Slaughter's Coffee-house in St. Martin's Lane. "He told me some odd stories of himself," said Miller, "such as that he had gone about England in stage-coaches, and stopped for days where strolling players were acting in a barn,

when he engaged himself as fiddler to them," with many other eccentric acts, from which the captain judged him deranged.

One cannot help recalling in this connection Mrs. Crummles' delightful reminiscence, as communicated to Nicholas Nickleby at Portsmouth by that eminent actress: "I have imparted tuition to the daughter of a dealer in ships' provisions; but it afterwards appeared that she was insane when she first came to me. It was very extraordinary that she should come, under such circumstances."

We hear nothing more of the unfortunate gentleman until the week before the tragedy, when Major Mackay saw him at Dumbreck's Hotel in Edinburgh; he then seemed utterly depressed in mind and was quite incoherent in what he said, but he was not intoxicated. Mackay next saw him in jail at his own request, and found him calm, rational, and collected, perfectly sensible of his situation. On visiting him two days later he found him "furious."

Before calling as his next witness Miss Janet Kinloch, the major's sister, Hope informed the Court she was so distressed that unless she were allowed to look at her notes she could not answer a single question. The Lord Advocate objected, if the notes were not taken at the time. The Court held that the witness might look at her notes, and then give her evidence upon oath. "I was always of opinion," said Braxfield in giving judgment, "that witnesses had a right to look at their notes for the purpose of assisting their recollection; but at the same time I think Mr. Hope was rather too warm when he said that your Lordships were putting form in the way of justice. It was not on account of form that the Court decided against a witness reading his notes, but from a desire of keeping pure the channels of justice by suffering no practice to be established which might tend to corrupt them." With reference to these two seemingly incongruent decisions Burnett in his *Criminal Law* observes, "It is proper to mention that in these decisions the Court were not unanimous. They all agreed that a witness could not produce notes, lay them on the table, and say, 'This is my evidence'; but they differed in this, whether a witness might not use notes to assist his recollection, though taken *ex post facto*, if he deponed when examined that the facts

stated in his memoranda were true. The Lord Justice-Clerk thought that the witness could competently do so."

Miss Kinloch stated that she had often heard her father, Sir David, say, "that poor mad creature Gordon" was never sound after he came from the West Indies. She gave several examples of her brother's eccentric behaviour since that time. In the beginning of April last she observed his malady plainly coming on, gradually gaining ground, and becoming more violent than she had ever seen it before. From the Saturday to the Tuesday before the catastrophe his symptoms were so grave that she advised Sir Francis to have him secured, lest he should do harm to himself or others. She kept out of his way as much as possible, and locked her bedroom door at nights for fear of him. On the Monday he told her he had taken poison, and gave her his watch, saying he had not many hours to live. She afterwards found that he had swallowed the whole contents of a bottle of laudanum, which he had taken from a cabinet in her room. On the Tuesday Sir Francis informed her that Gordon had been wandering about all night in Beanston Woods, and was raving mad. That evening he tried more than once to break into her room. Prior to the Sunday, the family never proposed to take any steps against him as insance.

"Miss Kinloch fainted previous to her coming into Court," says the *Scots Magazine*, "and during the examination was very much agitated. She was supported by two ladies." In such condition it was obviously impossible to subject her to a more detailed and particular examination, which, Hume maintained, would have brought out many circumstances strongly favourable to his client.

John Walker, farmer, Beanston, going out to yoke on Tuesday, 14th April, at 5 A.M., met Major Gordon, who was dressed in black, and cried, "Halt!" He seemed weary and confused, so Walker invited him to his house, recommending a bowl of tea and bed, both of which were accepted. "Don't ask me where I have been," said the guest, and desired to be left alone. At 5 P.M. Walker, alarmed by his silence, knocked at his room door, which the major opened, after removing a barricade of chairs within, and looked out with a pistol in each hand. He

asked for laudanum, saying he wanted 350 drops to obtain an everlasting sleep. Walker gave him tea instead, of which the major drank three saucers'ful from his hand, holding the while a cocked pistol to his host's body. He asked that Reid, the gardener at Gilmerton, be sent for, and Walker gladly left the room for that purpose. When Reid arrived, Walker bade him tell Sir Francis to send all the men in Gilmerton to seize the major. After Reid's visit, however, Major Gordon left the house, desiring his host to walk before him; but this was no mere courtesy, for Walter, looking behind, found the pistol presented to his back, and taking his leave under some pretence, made good his escape.

William Reid, gardener at Gilmerton for twenty-three years, described how he went to Beanston and saw Major Gordon, whom he found very "raised." Reid refused to go into his room until he laid aside his weapons. The major said he had been out all night in the planting. "I had a light from Heaven which appeared upon a bush, and I heard it crackle, but it was not consumed," he informed Reid; to whom he gave a folded paper as a legacy, for he would never see him again, and showed him an empty phial, with the remark, "I have taken all this, and yet I am still here!" Reid, going back to Gilmerton, advised Sir Francis of his brother's state, and gave him the "legacy"—a bank bill for £30. Major Gordon returned to Gilmerton that night: Reid saw him in the hall. At no time that day did he suspect him to be the worse of liquor.

There remains to be mentioned the medical evidence adduced for the defence. Dr. James Home, physician in Edinburgh, said that on 1st April last he met in the Exchange Dr. Farquharson, who told him that Major Gordon was in so queer a state, it would not be surprising if he were to destroy himself: he had been much affected by his father's death. Dr. Home called for him next day at the Black Bull Inn at the head of Leith Walk, where the major then lodged, and invited him to dinner at Hunter's tavern in Writer's Court. As they walked thither Major Gordon showed extreme irritation at the usual street sounds, "the noise of passing carriages putting him in confusion." (This, by the way, is not in itself indicative of

insanity, the experience being common to Edinburgh pedestrians of to-day.) At dinner he could eat nothing, and remarked, "All the devils in hell won't appease my stomach"; he declined port, taking only a little weak brandy and water. So struck was Dr. Home by his condition that next day he went out himself to Gilmerton and warned Sir Francis, who said that "he did not chuse to meddle"; his brother was subject to such fits, and would often disappear for a time, returning later perfectly well. On 16th April Dr. Home was summoned to Gilmerton, where he found Sir Francis dying. He said little about the accident. "What have they done with my poor, unhappy brother?" he asked; and learning that the major had been taken to prison, he said, "It would have been much better to send him to a private madhouse in Edinburgh." The doctor pointed out that the matter was now in the hands of the Crown authorities. "They had much better let it drop," said Sir Francis, "for he was mad." Questioned as to why he attempted, unarmed and alone, to secure his brother, he replied, "There would have been no danger if the servants had done their duty." On Friday, 17th April, Dr. Home visited the major in Haddington Jail; his looks and conversation were those of a person recovering from a fit of mania. The doctor also saw him frequently after his removal to Edinburgh; sometimes he was melancholy but composed, at other times his behaviour was that of a maniac, necessitating a strait-waistcoat.

Dr. William Farquharson, surgeon in Edinburgh, stated that he first met Major Gordon on being called to attend him in September 1789 at Mrs. Warden's, in the Grass-market, when he seemed to be suffering from mental derangement. There was a wound in the wrist, caused, as he alleged, by pushing his hand through a carriage window. After he was got to bed, a penknife stained with blood was found in his pocket, and also a large phial, half-full of laudanum. The patient avoided any inquiry on the subject, and there was no doubt that the wound was self-inflicted. Dr. Farquharson attended him for two months, during which he was at first sulky and deranged, but gradually recovered. He next saw the major in the beginning of April last on the North Bridge, looking over the parapet towards the Castle. "Good God!" he

exclaimed, alluding to someone whom the doctor did not know, "will that man do nothing for himself? Will he not go out of the world like a gentleman? I have advised him to it as the only thing left for him to do; but I am afraid he has not the spirit." (The Unknown may conceivably have had good cause for declining.) From his appearance and conversation generally Dr. Farquharson judged the major to be in a dangerous state. After his apprehension the doctor saw him several times; he was always disconnected in his speech, and was often in great wrath about some imaginary wrong.

This closed the case for the defence; and at 4.30 A.M. on Tuesday, 30th June, the Lord Advocate began his address to the jury. At the outset his Lordship frankly owned that the evidence for the defence had proved stronger than he expected, but even the prisoner's counsel admitted that this was a most necessary prosecution. The killing was proved; and the sole question was, Is the defence of insanity proved to that extent and degree which law and reason require in exculpation of the crime of murder? According both to Scots and English law only one who is absolutely insane, who is perfectly furious or mad, is free from trial and punishment. Temporary insanity, while it relieves a man of the consequences of deeds done in that state, does not do so in respect of acts committed during lucid intervals. Melancholy and depression of spirits, accompanied by a sufficient knowledge of right and wrong, are in themselves no bar to trial. After citing the authority of Sir George Mackenzie and of Lord Chief Justice Hale in support of these propositions, his Lordship said the question therefore came to be, Did the evidence warrant the conclusion that the pannel was at the time deranged to such a degree as to excuse him from the capital punishment due to murder? The military evidence was beside the question, for unless the jury found that from the fever in 1779 to the date of the crime he was occasionally, and at the time of the murder, totally, insane, they would not exculpate him. The evidence of the family upon this point contradicted any such suggestion. However whimsically and absurdly he may from time to time have conducted himself, nothing was done by them, or even proposed to be done, which could induce anyone to believe

that they really thought him insane. McMillan admitted that Major Gordon was able to distinguish good from evil. His capricious conduct and his alleged attempt at suicide did not prove that he was mad, and the several instances of eccentric behaviour neglected by his family precluded a supposition of insanity. It was most important to note that immediately after the crime he was perfectly aware of what he had done and of the consequences of his act. He offered the servants £100 apiece to let him go, and said that he had done an awful thing. To Mr. Goldie next morning he pleaded self-defence; there was a plot to destroy him. Fraser told them that the major was all along capable of transacting business. In the testimonies of Drs. Monro and Bell there was complete evidence that during their attendance they saw no symptoms of madness about him. " In short," said his Lordship, " if I can discover no moment of time at which total insanity commenced, I can see no period when returning reason resumes her reign. That he has method in his madness, and does not converse like a madman, is evident; he has complete recollection as to circumstances that happened some time before; and though he may reason absurdly, still he does reason, and understands the consequences of what he has done, and the cause of his confinement." With regard to the incidents spoken to by Dr. Farquharson and by Walker and Reid, it was for the jury to judge whether these proceeded from drunkenness of any other cause imputable to the pannel himself, or were really the consequences of unavoidable insanity. They must decide whether these two instances were not rather to be ascribed to the influence of laudanum. Dr. Farquharson's evidence clearly showed that the first was owing to a dose of laudanum voluntarily taken by the pannel; and as to the second, it appeared from the testimony of Miss Kinloch and of Reid that his condition was largely if not wholly due to the same cause. If he took it, and knew the consequences of taking it, he must be held directly accountable for the result. Finally, it was proved that the pannel from the time of the West India fever was often in a state of derangement, although attended with a sufficient degree of reason; but from 1779 till he appeared on the Tuesday morning at the house of Beanston, there was no vestige of proof that he was in that

state of lunacy which alone would entitle the jury to sustain the defence. The evidence of Miss Kinloch, of Walker, and of Reid as to his demeanour during the two days preceding the fatal act, however, was of a different nature; and upon its weight and sufficiency, keeping in view the observations already made, they would determine according to their consciences. Many circumstances in the pannel's conduct during the forty-eight hours prior to the event were favourable to the defence, as also was the evidence of Dr. Home regarding his last conversation with Sir Francis. Had the major really been insane, it was certainly the duty of his friends to have taken steps long before for his restraint. Even yet they did not advise him to plead insanity. It was admitted that he was sane and well at that moment, and competent to stand his trial. "Should the result be," said his Lordship in conclusion, "to balance the whole nearly equally on your minds, God forbid that where the life of a fellow-creature is concerned I should attempt to persuade you, were the attempt likely to succeed, that the scale would not be inclined to the side of mercy."

Hope, in addressing the jury for the defence, after complimenting the learned Lord on the candour of his ingenious speech, proceeded to draw a highly dramatic picture of Major Gordon's condition before and after his ill-starred visit to the West Indies—"that malignant and accursed climate, which seems to have been ceded to Europeans by the wrath of Heaven to be a scourge and punishment for the horrid barbarities they have acted there." A plague and affront to the family of which he was formerly the flower, shunned and avoided as a pest by those who once courted his company and thought themselves honoured by his friendship, wandering from his father's house he knew not why or whither, everywhere an object of terror and aversion, his brother fallen by his hand, himself now answering for his murder—such was the prisoner's fate. Notwithstanding all the learned subdivisions of insanity by Mackenzie and Hale, a jury must judge from the circumstances of each particular case; the one practical observation on the subject in either of those authorities was, that whatever might be the general symptoms of the disorder in a patient, if total insanity was

upon him at the time, the possibility of guilt and punishment was excluded. If the impression which the pannel's disease made upon his family on former occasions was to be evidence that he was not totally mad, what did the learned Lord make of the conduct of the family on the last occasion? It was proved that every member was convinced of the absolute necessity of immediately restraining him, that every friend who saw him was of the same opinion, and accompanied it with the most earnest advice. He is seen in Edinburgh so early as 28th March by Drs. Home and Farquharson, who communicate to each other their observations of his malady, and Dr. Home informs Sir Francis, who tells him he also had observed it. Mr. Goldie sees him, forms a decided opinion that he ought to be secured, and goes to Gilmerton to warn Miss Kinloch, who tells him she had anticipated his advice by sending for Somner. Somner and Fraser come on the Monday to urge the necessity for action. On the fatal night Walker sends from Beanston a message by Reid to bring all the servants to secure him, and Reid in the very act of delivering the message is frightened by the prisoner's appearance at Gilmerton. In the course of the evening McMillan obtains permission to send for Somner to bring "what is necessary," and Somner comes with a keeper and a strait-waistcoat. The assistance in the house of three or four men-servants, besides a postboy from Haddington, and three labourers from the farm, is arranged for; and but for Sir Francis' rash attempt to seize his brother single-handed, the tragedy would never have occurred. If anything were wanting to confirm the evidence arising from the opinion of the family, that fatal event put it beyond all doubt. As to the pannel's physical condition at the time, it was proved that he constantly complained of sleeplessness, which was one of the symptoms of insanity, and that for at least two nights before the accident he had not closed his eyes. Another symptom was resistance to the calls of hunger: he had not tasted food for at least forty-eight hours. Insensibility to cold was a further symptom: see him wandering all night almost naked through the house of Gilmerton, and if that were not enough, follow him to the woods of Beanston, and there view him "stretched out and bleaching in the

northern blast." For his general demeanour they had the evidence of Somner, Fraser, Walker, and Reid. Fraser's description of the blunderbuss incident on the Monday afternoon was very striking. Then there was the scene at Haddington, and the escape from the chaise in the middle of a dark and dreary night, flying from his best friends to wander in the woods and dwell with the beasts of the field. (This seems hardly fair to that hospitable agriculturist, Walker.) Such was the knowledge of good and evil, of friend and foe, which they were asked to believe this unhappy man possessed! Somner's account of the prisoner's behaviour on the fatal night was pregnant with innumerable proofs of the most decided insanity: his perpetual restlessness, his incoherent conversation, his affection for Sir Francis at one moment, his suspicions that he had been poisoned by him the next, and his frantic gestures when he came down to the parlour. In the testimony of Walker and Reid there was abundant confirmation—one need only recall the vision of the light from Heaven and the burning bush, such things being the constant effects of a disordered mind. Their evidence was conclusive of insanity. Look at the prisoner's conduct after the deed: he told the servants he had not an hour to live; he told Mr. Goldie he had been poisoned, and that there was a plot to destroy him. While in jail he may have been "recollected" at times, but there was no proof of rapid and complete recovery. Drs. Monro and Bell saw him for a few minutes only once a week; Drs. Home and Farquharson visited him twice a day. They often found him outrageous, and thought a strait-waistcoat necessary if he did not improve. After arguing that the present case was in exact opposition to and contradiction of that of Lord Ferrers, in which not only was there no proof of temporary insanity, but previous malice and determination were proved, counsel concluded with a strong declaration of his personal belief in his client's innocence.

Lord Braxfield's charge to the jury is so brief and pithy that it may be quoted verbatim as an interesting example of his judicial style:—

Gentlemen of the Jury,—That Sir Francis Kinloch was killed by the hand of the pannel is proved beyond a doubt;

you have therefore to consider the defence on his part set up. Now it will occur to any man of sound sense and judgment that there are different degrees of insanity.

If a man is totally and permanently mad, that man cannot be guilty of a crime; he is not amenable to the laws of his country. There is no room for placing the pannel in that predicament; for as a person totally and absolutely mad is not an object of punishment, so neither is he of trial.

The next insanity that is mentioned in our law books is one that is total but temporary. When such a man commits a crime he is liable to trial, but when he pleads insanity, it will be incumbent on him to prove that the deed was committed at a time when he was actually insane.

There is still another sort of distemper of the mind, a partial insanity, which only relates to particular subjects or notions; such a person will talk and act like a madman upon those matters; but still if he has as much reason as enables him to distinguish between right and wrong, he must suffer that punishment which the law inflicts on the crime he has committed. You have therefore to consider the situation of the pannel, whether his insanity is of this last kind or whether he was, at the time he committed the crime, totally bereaved of reason. For if it is your opinion from the evidence that he was capable of knowing that murder was a crime, in that case you have to find him guilty.

Gentlemen, this is a question of some nicety. You have the testimony of certain witnesses that he was correct and coherent in his answers; and you have on the other hand evidence that he was totally deranged by a fever in the West Indies. In regard to a later period the conduct of the family with respect to him is also to be considered. It has been observed for the prosecutor that no steps were taken to secure him till just before the accident happened; whence it is attempted to be inforced that the family thought his disorder only a sort of melancholy and not a derangement of such degree as required confinement. I must say that if this event had taken place eight days sooner than it did, this circumstance would have come with very great force against the pannel; but in the actual circumstances of the case it comes with more force in his favour, and is a consideration of weight upon his side. For it is proved that a nurse had actually been provided to take care of him, and a strait-waistcoat prepared to put on him; and pity it is that this plan was not timeously put in execution.

Gentlemen, I shall not take up more of your time. You will consider the evidence well, and decide according to your consciences. If you are convinced that he knew right from

wrong, you will return a verdict of guilty. On the other hand, if it shall appear to you that he was not able to distinguish between moral good and evil, you are bound to acquit him. But, gentlemen, I think that in all events a verdict of not guilty is not the proper verdict for you to return. I think you ought to return a special verdict, finding that the pannel was guilty of taking the life of his brother, but finding also that he was insane at the time.

It was seven o'clock on Tuesday morning when Braxfield finished his charge, and as the proceedings had already lasted for twenty-two consecutive hours, his Lordship proposed that the Court should adjourn, after appointing a time for receiving the verdict; but at the request of the jury it was agreed to continue the sederunt till the verdict was returned, which, after an interval of thirty-five minutes, was done in the following terms: all in one voice found it proven that the pannel killed Sir Francis Kinloch in the manner mentioned in the indictment, but found it also proven that at the time the pannel was insane and deprived of his reason. The jury were then discharged, the prisoner was removed, and the Court adjourned. On 15th July the legal consequences of this special verdict were considered by the judges, each giving his separate opinion. These were unanimously to the effect that the pannel was not an object of punishment, and therefore should be assoilzied; but in respect of his insanity, he should be detained a prisoner in the Tolbooth for life, or until he was delivered to such of his friends as should find caution for his safe custody during life, under a penalty of £10,000 sterling. An interlocutor in these terms was duly pronounced and on the 17th, Dr. Farquharson having found the requisite caution, the prisoner was delivered to his care.

Sir Archibald Gordon Kinloch survived until 1800, when he was succeeded in the baronetcy by his brother Sir Alexander, the Sandie of the trial.

Braxfield presided at his last murder trial in the year following the Kinloch case. There is no separate report of the proceedings, and the affair is now only known by Lockhart's notice of it in his *Life of Scott*, and by Kay's excellent etching of the prisoner at the bar, where he sits gnawing his nails, between two of the old City Guard. A

fairly full account will be found in the *Edinburgh Evening Courant* and in the *Caledonian Mercury,* both of 15th December 1796. James M'Kean, shoemaker in Glasgow, was indicted for the murder and robbery of James Buchanan, carrier between that city and Lanark. The trial took place at Edinburgh on Monday, 12th December, of that year. " Have you any counsel? " asked Braxfield. " No," replied the pannel, " nor do I desire any but the Almighty." He then pleaded guilty to both crimes, and signed his judicial confession; but the Lord Advocate (Robert Dundas) said that to satisfy the Court and the country he would adduce such evidence as, apart from the confession, would sufficiently warrant a verdict of guilty. It appeared from the proof that for some weeks before the murder M'Kean had assiduously sought the company of the carrier, who was in use to convey weekly from the Merchant Banking Company, Glasgow, sums of money to a manufacturer in Lanark. On Friday, 7th October, an official of the bank gave Buchanan for this purpose a sealed packet, containing sixteen £5 and twenty £1 notes. The landlord of the inn at which Buchanan put up when in Glasgow—appropriately designed as "change-keeper "—last saw his guest alive between four and five o'clock that afternoon. The carrier said he had been invited by the hospitable M'Kean to drink tea at his house that evening. About six o'clock the neighbours in the tenement where M'Kean lodged were alarmed by cries of " Murder! " and hastening to his house, were met by Mrs. M'Kean " in an ecstasy of grief, crying out that she was ruined and undone: her man had killed Buchanan the carrier; the body was in the back-room closet." They saw much blood upon the floor, and in the press discovered the dead body of the carrier, his throat cut even to the back bone, and his pockets rifled. A surgeon summoned to the scene pronounced death to have been instantaneous, the carotid arteries being severed by a single cut. Upon a shelf was found a bloody razor " with a small bolt at its back," bound with rosined thread so as to make it rigid.

The murderer had some hours' start, but the officers of justice were quickly on his trail. He was tracked to Irvine, where his pursuers came on Sunday the 9th. They learned that a man answering to his description had sailed from

that port for Dublin the day before, but as there was a strong south-west gale blowing it was thought likely that the ship had taken shelter in the bay of Lamlash in Arran. The two officers therefore set out for Saltcoats, where they might hire a boat to take them across the Firth to the island, but so wild was the sea that none would venture out. Next morning the storm was unabated, but the intrepid officers, having obtained from a magistrate a warrant to that effect, impressed a boat and crew. After a dangerous passage they reached Lamlash at eight o'clock at night. Sure enough, there lay the ship at anchor within the bay, but the sea was running too high to allow them to board her with safety; so they landed at the village and entered the inn, where they "called for a room and a fire, as they were very wet." The landlady said there was a good fire in the kitchen, into which she ushered the dripping voyagers, when the first sight that met their eyes was the murderer, among other storm-stayed passengers comfortably enjoying the blaze. The officers instantly covered him with their pistols, bidding him surrender. "I know your errand," said he, rising from his seat: the game, as he perceived, was up. Searched in a private room, the carrier's pocket-book and watch were found upon him sewn into the lining of his greatcoat. Next day, the weather having moderated, the prisoner was removed to Glasgow. It is satisfactory to learn that for this smart capture the officers received not only the thanks of the magistracy, but the more substantial reward of twenty guineas.

The notes in the pocket-book were identified as those entrusted to Buchanan, the watch was proved to be his, and M'Kean's presence in the house at the time of the murder and his flight upon being surprised by his wife were fully established. So clear was the case that the Lord Advocate did not address the jury, who returned the inevitable verdict. The Lord Justice-Clerk in pronouncing sentence referred in forcible terms to the enormity of the crime and the deliberate method by which it was effected, remarking that the whole circumstances attendant upon this foul murder indicated a mind sunk to the lowest degree of depravity, and that the horrid deed threw a stain upon the human character and was a reproach to the whole

country. Addressing the pannel "in a suitable and affecting manner," his Lordship told him that the crime he had committed was such as precluded him from all hope of mercy in this world, and earnestly entreated him to make his peace with God. The sentence was that the pannel be hanged at Glasgow on 25th January 1797, "and his body delivered to Dr. James Jeffrey, Professor of Anatomy in the University of Glasgow, to be publicly dissected and anatomized," all which was well and duly done.

A portrait by Raeburn of Braxfield as Lord Justice-Clerk is of interest in distinction to the earlier treatment of that great subject by the same artist, as immortalised by Stevenson, which adorns the walls of the Parliament House in Edinburgh. This lesser-known portrait, painted, according to Mr. Caw (*Scottish Portraits*, ii. 58), some years later than the other, which is of 1790, shows his Lordship "in the red robes of criminal jurisdiction, his face framed in the white wig," and was probably done about the time of the Kinloch case. An engraving of it was made by Lizars in 1798, from a copy of which the present reproduction is taken. The plate was dedicated to Braxfield's son-in-law, Lord Armadale. Where the original painting exists, I have been unable to discover. It does not appear that Stevenson ever saw this presentment of his hero, which seems as characteristic, if hardly so pleasing, a likeness as that whereby his imagination was taken captive, to the inspiring of the incomparable portrait of his own Justice-Clerk.

Note I.—The Kinloch Case.

An unpublished autograph letter of Sir Walter Scott, which I am fortunate to possess, makes interesting contemporary reference to the Gilmerton tragedy:—

"Dear Kerr,—I have not heard from you this long time, though according to my computation you are for once upon the debit side in our correspondence. I have, however, no title to complain, when I consider how often I am in fault myself. I now send you Locke's Works, three volumes, and the second number of the *History of Cumberland*—a very dry work.

"There has a most shocking occurrence taken place lately

in East Lothian: the murder of Sir Francis Kinloch by his brother Gordon, in a fit of rage or insanity. The murderer is confined. I do not hear that Sir Francis is yet dead, though no life is expected. I shall write you at large soon, meanwhile am ever yours sincerely,

"Walter Scott."

The letter is undated; but as Sir Francis was shot early in the morning of Wednesday, 15th April 1795, and died on the Thursday following, it must have been written in the course of that week. It is addressed to his old companion, Charles Kerr of Abbotrule, who introduced him to his friend Robert Shortreed. Scott, it will be remembered, had been called to the bar in 1792. His Latin thesis *De Cadaveribus Damnatorum* was dedicated, appropriately enough, to Braxfield.

Note II.— The Case of M'Kean.

Sir Walter Scott, Lockhart tells us, attended the trial, and was struck by the sanctimonious air maintained by the murderer—"preserving throughout the aspect of a devout person, who believed himself to have been hurried into his accumulation of crime by an incontrollable exertion of diabolic influence." This, by the way, was the attitude adopted in similar trying circumstances by a later Glasgow practitioner, Dr. Pritchard. On his copy of the criminal's autobiography after-mentioned Sir Walter made the following marginal note:—"I went to see this wretched man when under sentence of death, along with my friend, Mr. William Clerk, advocate. His great anxiety was to convince us that his diabolical murder was committed from a sudden impulse of revengeful and violent passion, not from deliberate design of plunder. But the contrary was manifest from the accurate preparation of the deadly instrument, a razor strongly lashed to an iron bolt, and also from the evidence on the trial, from which it seems he had invited his victim to drink tea with him on the day he perpetrated the murder, and that this was a reiterated invitation. M'Kean was a good-looking, elderly man, having a thin face and clear grey eye; such a man as may be ordinarily seen beside a collection plate at a seceding meeting-house, a post which the said M'Kean had occupied in his day. All M'Kean's account of the murder is apocryphal. Buchanan was a powerful man, and M'Kean a slender. It appeared that the latter had engaged Buchanan in writing, then suddenly clapped one hand on his eyes, and struck the fatal blow with the other. The throat of the deceased was cut through his handkerchief to

the back bone of the neck, against which the razor was hacked in several places."

The Life of James M'Kaen [*sic*] (Glasgow: Brash & Reid, 1797) ran through three editions. Described as an "historical narrative"—"romance" would be the better term—taken down from his own mouth in the Tolbooth of Glasgow, it follows the classic lines of such autobiographies, attributing the blame of the author's complicated transgressions to original sin, and abounding in pious and improving precepts. M'Kean admits that he began badly. At the early age of twelve he robbed and deserted in Dalkeith his widowed mother; at sixteen, in circumstances of repulsive cruelty, he broke off with the girl he had been courting. Shortly after his marriage with another he seduced a fresh damsel, whose child conveniently disappeared; he is much distressed by unworthy suspicions that he had made away with it. His mother, who had thriven as a small shopkeeper, was induced to sell her business and come to live with him in Glasgow, whither he had gone "with sufficient testimonials of moral character" from his parish minister, and had established himself as a shoemaker in the High Street. On the night of 26th September 1785 M'Kean called his mother out of the house, saying that a stranger wanted to speak to her. She never returned, and next day her body was found "in the Great Canal, near Ruchhill." Such is the depravity of the human heart that there were those who suggested that her son and heir had a hand in her death, whereas he points out that not only did he give her a "decent" funeral, but expended four and threepence in advertising in the local press for her murderer! The story that he had previously boiled the deceased's cat in a pot is, he adds, but another of those calumnies from which the most virtuous must not look to escape. M'Kean's version of the crime for which he was condemned is too grotesquely false for further notice. While in Arran, despite his sufferings by sea and "horror of conscience," he hired a horse and rode over to Brodick to view the Castle, "where the Duke of Hamilton frequently visits"; and there enjoyed the conversation and refreshment of the landlord of the inn. On his return he was apprehended after supper. The volume closes with a useful compendium of texts bearing upon bloodguiltiness, "which will save the reader the trouble of collecting them himself, as the verses lye scattered in various parts of the Sacred Volume." M'Kean was considerate to the last.

In 1826 another M'Kean committed a murder equally atrocious, and, curiously, with a similar weapon. De Quincey in his famous essay, *On Murder, Considered as One of the Fine Arts,* tells at length the story of that crime.

FINIS